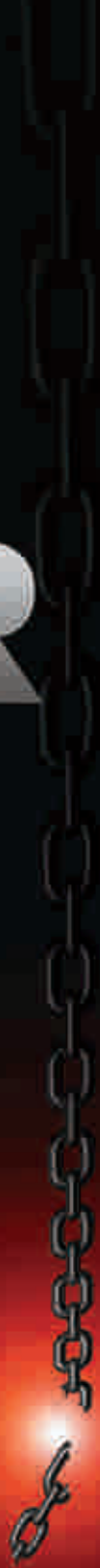


PAYING BACK IN

**SWEAT
&
TEAR**



PAYING BACK
IN SWEAT
AND TEAR

A Consolidated report based on study of
Kamaiya Liberation, Brick Kiln workers
and Domestic Labour in Nepal

Published by

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This report is a consolidated form of mainly three reports namely- **Kamaiyas and Interventions** (an analysis of the effectiveness of interventions made over the years for the release and rehabilitation of bonded labourers in Nepal); **Labour under the Chimney** (a study on the Brick Kilns) and **Toiling at the Homes** (a study of the Domestic Labour) of Nepal. The report is the product of a study that was commissioned as part of a regional project in association with Anti-Slavery International, London.

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Executive Summary

The report synthesises studies and interventions made against bonded labour relationships prevalent in the *kamaiya* system¹ in Nepal. It also looks into existing labour practices in the domestic sector and brick industry by way of a rapid survey.

Various studies carried out by different institutions reveal that bonded labour still exists in Nepal, and can be found throughout the country in many forms, despite different legal provisions banning such labour. Poverty, landlessness and illiteracy force people to sell their labour in exchange of a nominal wage and in lieu of a loan taken by themselves or by their ancestors. A person enters into debt bondage when their labour is demanded as a means of repayment of the loan given in advance.

Bonded labour under the *kamaiya* system has attracted a lot of attention since the restoration of multiparty democracy in 1990. Various interventions have been launched to eliminate the bonded labour system by improving the level of awareness of the people affected on human rights and social justice.

The government agencies implemented *kamaiya* livelihood programmes with a welfare approach. Trade unions followed a rights-based approach with

1 Chapter One elaborates on the *kamaiya* system.

emphasis on release, minimum wages and guarantee of employment, whereas NGOs, INGOs and other actors provided a package that built on both awareness raising and service delivery. These interventions led to the liberation of *kamaiyas* from debt bondage in the year 2000. Yet, there are a number of issues and concerns pending to be tackled.

Other forms of bonded labour relationships have not received that much attention in the agricultural sector, let alone in non-agricultural sectors.

A rapid study conducted on the pattern and practice of labour in brick kiln shows that most of the workers in the industry are seasonal migrants. They have come to the brick kilns to pay off the advance they or their family members have taken, and cannot leave the kilns until the brick-making season is over. The brick industry thus involves a peculiar pattern of seasonal bonded labour, in which the workers are bonded to the owners for a certain period of time by virtue of an advance payment.

Brick making is a tedious process that involves as many as 17 chain of activities. In most cases, whole family members are found engaged in the chain of activities, including children who work alongside their parents or elders. In certain tasks, children are preferred, such as brick moulding and brick carrying in and out of the kilns.

Child labour is found to be rampant in the domestic sector as well. As the rapid assessment makes it clear,

child labour takes place not because adults are not available for work but because of children's vulnerability. Children are physically weak and are easy to dominate and manipulate at the cost of love and care they require. So children are preferred to adults to earn as much as possible, to produce surplus value.

Above all, the report leads to the following two conclusions:

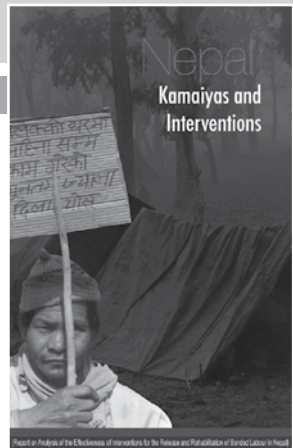
- First, intolerable forms of labour, including child labour and debt-bondage, continue to exist not in lack of the awareness of harms inherent to them. Nor do they exist in lack of legal prohibition of them or public outcry against them. These labour practices exist in lack of moral shame and social conscience on the part of those who are said to be rich, powerful, educated and standard-bearer of society.
- Second, intolerable forms of labour system from the legacy of feudalism: *I give you a protective shelter and you pay me back in sweat and tear*. The present-day logic of market capitalism backs up this feudal logic: *the right of the might is to earn and consume as much as possible by any means available*. In fact, intolerable forms of labour are highly desirable for the might of both the feudals and capitalists.

The prospects of the elimination of bonded and other intolerable forms of labour does therefore depend on the capacity of the concerned actors, particularly of NGOs, trade unions, media and other actors in the civil society,

to protect the weak and vulnerable from the clutches of the powerful who are habituated to profiting from others' vulnerability; and, to hold the state to account for its failure to respect, protect and fulfill its international human rights obligations.

Chapter I

THE KAMAIYA SYSTEM AND INTERVENTIONS AGAINST IT



CHAPTER I

THE KAMAIYA SYSTEM AND INTERVENTIONS AGAINST IT

INTRODUCTION

1.1 Definition of Bonded Labour

In the Nepali language, bonded labour is popularly known as '*baandha*', '*daas*', '*kariya*', and '*kamaiya*'¹. The relationship between an employer and a worker varies in these labour relationships, but all words mean that there is restricted freedom to change an employer. Besides these terms, which are used to denote the bonded labour system prevalent in Nepal, there are other terms such as '*jhara*', '*beth*' and '*begar*', which denote the forced labour system. In recent years, the *kamaiya* system has been legally recognised as a bonded labour system. Some legal arrangements have also been made, since July 2000, to outlaw the *kamaiya* system and rehabilitate the *kamaiyas* freed from the system both by the state and other stakeholder. In recent years, there has been renewed interest among the development practitioners in identifying and locating bonded labour relationships in other systems as well. Evidences indicate that bonded labour practices are mutating into different shapes and

1 See, Annex – 2 for the meanings of these terms.

forms especially among the informal workers in Nepal. The government of Nepal has enacted the Kamaiya Labour (Prohibition) Act, 2002 to control the use of bonded labour in the country. The Act defines the terms 'bonded labour system' as follows:

- A forced or partly forced labour system in consideration of an advance obtained by him/her or by any of his/her lineal ascendants and in consideration of the interest, if any, due on such advance, or
- Labour rendered in pursuance of any customary or social obligation by himself or by his family members for a specified or unspecified period either without wages or for nominal wages, or
- Forfeiture of the right to move freely and forfeiture of the right to appropriate or sell at market value any of his/her property or product of own labour or the labour of a member of family or any person dependent, or
- A system that denies a choice of alternatives and compels to adopt one particular course of action requiring labour or service.

Although meant primarily for the *kamaiya* workers, the Act has the potential to be applicable to other forms of labour relationships with elements of bondage as defined in the Act. However, there is a lack of fuller understanding of bondage situations in other forms of labour relations, both in the agriculture and non-agricultural sector.

1.2 Forms of Bondage

Various studies carried out by different institutions have revealed that bonded labour still exists in Nepal, and can be found throughout the country in many forms, despite different legal provisions against the practice. Bonded labour can be generally divided into two broad categories: (a) debt bondage and, (b) other forms of bondage. Debt bondage is a form of enslavement, which is both ancient and modern, whereas other forms of bondage exist as forced, coercive and hazardous labour. A detailed research has not been carried out yet in these areas.

Poverty, landlessness and illiteracy force people to sell their labour in exchange of a nominal wage and in lieu of a loan taken by themselves or by their ancestors. A person enters into debt bondage when their labour is demanded as a means of repayment of the loan given in advance. Debt bondage may occur due to various reasons. Among them are the following, which Ojha (1999) finds compelling:

- To pay up loan taken by oneself or one's family or interest thereof,
- To pay up loan taken by one's ancestor or interest thereof, and
- For the loan or guarantee of a person who is a guarantor to a creditor or who has paid up loan of a creditor

The most direct indicator of debt bondage is repayment of loans through labour services. Repaying loans through labour becomes bondage only when employers use their

power over labourers through the debt contract or other means to exploit labourers and/or their family members. Kamaiya system in Nepal is one of the major forms of bondage emanating from credit relationship between the employer and the worker.

1.2.1 Kamaiya System

The Nepali dictionary defines the word '*kamaiya*' as "a hard tiller of land, a male or an obedient person, one who earns along with his/her family in other's land by borrowing in cash or kind from the land owner or a peasant equivalent to him/her". This definition does not precisely reflect the meaning of *kamaiya* in the contemporary context. Yet, it does refer to the fact that *kamaiyas* are put to hard labour. It relates to the following (a) a labourer who does hard work, (b) use of such a labourer in cultivation, (c) borrowing in cash and kind, and (d) attachment of the labour along with other members of his/her family.

The *kamaiya* system thus refers to the human power exploitation for agricultural and other related works. However, the crucial element of the *kamaiya* system is the way and terms of conditions on which '*saunki*'² is given and the way their account is maintained. The aforesaid definition, underlying the word *kamaiya*, although apparently positive in the sense it is explained, expresses implicitly a tale of human exploitation and injustice presenting a *kamaiya* as a slave or bonded worker (INSEC, 1992: 34).

2 *Saunki* is a Tharu word for debt

After the enactment of the Kamaiya Labour (Prohibition) Act 2002, the Ministry of Land Reform and Management categorised the *kamaiya* families into four categories on the basis of ownership of land and a house. Of a total of 18,400 *kamaiya* families identified in Dang, Banke, Bardiya, Kailali and Kanchanpur districts, 43.6 percent, 29.5 percent, 10.2 percent and 16.7 percent belonged to group A, B, C and D respectively. Similarly, after identification, the government provided a differently coloured identity card: Red, Blue, Yellow and White to A, B, C and D categories respectively. The characteristics of the groups were identified as follows:

Group 'A' Landless freed *kamaiyas*

Group 'B' Landless freed *kamaiyas* residing at barren public land and has a temporary hut to live

Group 'C' Freed *kamaiyas* with a house and less than 0.068 hectare of land

Group 'D' Freed *kamaiyas* with a house and 0.068 hectare or more of land

A permanent labour relationship like *kamaiya* is in practice in some areas of Kapilvastu, Rupandehi, and Nawalparasi districts too. However, not much information is available on actual characteristics of labour relationship in these districts.

Labour Practices in the Kamaiya System

A traditional practice was in the Tharu community to elect a leader by the community to regulate the community affairs. The leader was identified as Mahat. In lieu of his service to the community, he used to receive four days'

free labour service in a year (two days in summer and rest in winter) from each household under his jurisdiction. As *zamindars* (landlords) started to become influential and powerful, they started to select the Mahat instead of the communities (Bista, 1976:118).

Like the Mahat system and privileges to the Mahat in the Tharu community of western Nepal, a *Subba* system was in practice under the *Kipat* system in eastern Nepal. In the Tharu communities privilege to Mahat gradually took a wider form in the form of the *kamaiya* system. But the Subba system did not degenerate into any exploitative form. The *kamaiya* system is thus one of the most vulnerable bonded labour systems in Nepal prevailing for more than 50 years, especially in the mid and far-western Terai districts in a new form of slavery. Unlike a slave, a *kamaiya* labourer can, in theory, be free or change his master as long as he could pay *saunki*, which a slave cannot as s/he is sold in the market as commodity. This is the only difference between a slave and a *kamaiya*.

The wage or remuneration for *kamaiya* is too low to meet the need for a square meal for a family. It is 9 to 12 sacks of paddy, a sack being equivalent to 75 kilograms. Consequently, a *kamaiya* is compelled to borrow from the landlord to cover expenses for food, medical expenses, social obligations, and other unusual circumstances. These additional borrowings add to the debt.

Bigha is another form of a wage payment, in which the landlords provide 5 percent of the total land for a *kamaiya* to cultivate for himself and his family. Generally

it is a low-quality piece of land that does not produce any significant amount of yield.

The indebted *kamaiya* family without a piece of land and a house is more vulnerable than those with these items in their possession, which give them some bargaining power. In case of the first type of *kamaiyas*, the whole family remains bonded in most cases, and reside in a hut constructed in designated corner within the compound of the employers' dwelling.

1.2.2 Other Forms of Bondage

The bonded labour system in Nepal is not limited to the *kamaiya* system, and is extended to other forms of labour in the agriculture sector. The '*haliya*', '*haruwa*', '*hali*', '*charuwa*', '*bhunde*' and '*chakari*' are other known forms of bonded labour practices. In the non-agricultural sector, human trafficking and domestic service especially child domestics carry debt bondage.

i) *Haliya* System

The term '*haliya*' denotes a ploughman who works as an agricultural labour generally on a short-term contract. In many places this system also entails debt bondage and related characteristics. Like a *kamaiya*, a *kaliya* is a male.

Generally *haliyas* are from the background of the 'low caste' and ethnic community. The *haliya* system is prevalent all over the country, but is more common in Baitadi, Bajhang, Bajura, Dadeldhura, Darchula, Gorkha,

Mustang, Myagdi, Parbat, Baglung and Gulmi districts (INSEC, 1994).

The National Dalit Welfare Organisation estimates that about 60,000 Nepalis are compelled to work as *haliyas* all over the country, and one fifth of them are from the *Dalit* community in the hills of mid and far-western development regions. As in the *kamaiya* system, a *haliya* is, when ill or unable to work, compelled to send his substitute to the landlord. Otherwise he faces wage deduction.

In Saptari district, which is situated in the eastern Terai, the 'untouchable' families are forced to provide labour to the landlords at a wage lower than the market rate. Work obligations may extend to all family members including women and children and for certain traditional roles the villagers may be required to give their services with no payment at all.

Haliyas in Udayapur district do agricultural works for a whole year, but are free to leave if they wish. They get three meals per day, monthly salary and a fixed quantity of rice after the harvest. In some places they also get sick leave and medical facilities up to one thousand rupees a year (Robertson & Mishra, 1997: 11-12). There is thus a variation in the *haliya* system.

There are a number of similarities as explained above, in the nature of *kamaiya* and *haliya* systems. Likewise, these two systems also differ in many ways (Table 1.1).

Recently the *haliyas* of western hills have started to organise for their freedom. Using the Kamaiya Labour (Prohibition) Act, 2002 (see section 2.4.2 below), the District Administration Office of Dadeldhura declared seven *haliyas* free from debt and bondage. Among them the loan varied NRs 2,000 to 30,000 while others continued working in lieu of interest on debt. This process is being replicated in other districts too. Nepal National *Dalits* Welfare Organisation is launching a campaign against such an exploitative system. Even though the Kamaiya Labour (prohibition) Act is targeted to *kamaiya* system, the Act is being used to emancipate other bonded labour in agriculture.

Table 1.1: Differences between Kamaiya and Haliya Systems

<i>Kamaiyas</i>	<i>Haliyas</i>
<ul style="list-style-type: none"> • <i>Kamaiyas</i> get meal as desired by the master. • Hardly get a free time. • Families are also bound to work in the same house. • <i>Kamaiya</i> system is residential. They need to stay at master's house. • It has virtually no contract system. <i>Kamaiyas</i> may stay in the same house for generations. • <i>Kamaiya</i> system represents the debt bondage mostly within an indigenous Tharu community • <i>Kamaiyas</i> are normally from Tharu community who can enter into the house of the landlords 	<ul style="list-style-type: none"> • <i>Haliyas</i> get two meals a day. • Comparatively free to move during off season • Families are free to work elsewhere, need not take permission from the landlords • <i>Haliya</i> system is mostly non-residential • Mainly short term contract – generally four months per year - should be available for the whole year as needed by the master but gets only daily meals and wages for four months. • The '<i>haliya</i>' system is prevalent among different castes and class at different places. • <i>Haliyas</i> are mostly from <i>Dalit</i> community and are not permitted to enter into the house of their landlord

ii) Domestic Servant

Another form of labour that involves exploitative relation is domestic labour. It entails a service by a residential servant who provides all necessary services to the masters. In exchange, the domestics get only a little pay. The age and nature of work of the domestics differ vastly areas after areas. More information about the nature of work and labour conditions is available in Chapter 3.

iii) Human Trafficking

Human trafficking is considered as a form of modern day slavery. Trafficking of women and young girls remain a complex socio-economic and political issue in Nepal.

Women and children are trafficked for several purposes like sex trade, circus works, domestic work, embroidery work, and so on. Among them trafficking for sex trade is a major one. At present it is estimated that about 0.25 million Nepali women and girls are forced as sex workers in the brothels of India alone. An ILO estimate shows that about 10 to 12 thousand girls and women aged 11 to 25 are annually sold to the brothels and compelled to work as bonded labourers.

Trafficking of boys also came into limelight when Women Rehabilitation Centre (WOREC) interrupted a train wagon in April 2001, and rescued 25 boys aged between 8 and 15 years of age being taken to Mumbai, India. The Centre found other 70 trafficked boys below 15 years of age who were being kept in India.

iv) *Bhunde* System

Labour practices are also specific to districts or regions. One of such systems is known as '*bhunde*' in different mountain districts of western Nepal, especially in Bajura district. Most of the people under this system are Dalits, and are traditionally responsible for taking care of sheep. In recent days, their job also includes general agricultural work. Payment for the labour includes the yield from a fixed area of land provided by the landlord.

Table 1.2: Nomenclature for Various Forms of Labour Systems in Nepal

Category of Labour	Area of Concentration	Estimated Number	Remarks
<i>Kamaiya</i>	Well researched and documented in Dang, Banke, Bardiya, Kailali and Kanchanpur. Some research has been done in Chitwan, Nawalparasi, Rupandehi and Kapilvastu	18400 + families (more than 100,000 population only in former five districts)	Information on the <i>kamaiya</i> system prevalent in the last four districts is limited to Sharma and Thakurathi (1998), hardly any other sources of information available.
<i>Haliya</i>	All over the country in general, more exploitative in the western hills	60,000	Terms and conditions under this system differ along districts. A few studies have been made (Robertson and Mishra, 1998, Sharma and Sharma, 2002).
<i>Bhunde</i>	Bajura and other districts of the Karnali Zone		Not researched

Category of Labour	Area of Concentration	Estimated Number	Remarks
Domestic Servant	Mainly in urban cities, majority in the Kathmandu Valley	An estimated 54,000 child domestics (Sharma et al. 2000), mainly in urban centres	Some studies on child domestics, no study available on adult domestics
Human Trafficking	Mostly in Indian brothels and circus	10,000 to 12,000 annually	

In conclusion, there is a tremendous variation in permanent labour systems in the country. It can be seen that bondage relations emerges from different sources in different districts. Table 1.2 shows the nomenclature for various forms of labour systems that exist in Nepal.

Among the above said systems of bondage, the first four are related to the agricultural sector while the last two are in the non-agricultural sector.

II. INTERVENTIONS AGAINST THE SYSTEM

2.1 Objectives of Intervention

Various interventions were launched in the past to eliminate the bonded labour system by improving the level of awareness of the people affected on human rights and social justice. Each of the programs carried out by different organisations had their own objectives, and each varied in the nature of programmes.

The broader and the major objective common to all organisations was the complete abolition of the bonded labour system, especially the *kamaiya* system. The methods in practice varied in a wide range, and were based on either of the two approaches: rights based and welfare oriented. Focus of the rights-based approach has been mainly on awareness raising, literacy, advocacy, lobbying, organizing and policy interventions; whereas the welfare oriented approach has been limited to income generation, legal aid services, payment of *saunki* and skills trainings. In short, the former was concentrated mainly on **Release** and the later on **Rehabilitation**.

2.2 Target Group and Number

The interventions against the *kamaiya* system, not least those targeted to *kamaiya* families, started only after the restoration of multiparty democracy in 1990. They basically concentrated in Dang, Banke, Bardiya, Kailali and Kanchanpur districts. The actual number of the target population is not known as yet, but a general estimation holds that the population size of *kamaiya* families exceeds

100,000. But no single intervention has been made for the release and rehabilitation of those trafficked and sold in brothels, as well as of those working as the domestics.

2.3 Actors of Interventions

Various government agencies, I/NGOs, CBOs, trade unions and political parties participated, directly or indirectly, in a large range of activities aimed at the complete abolition of the inhumane practice, including a number of welfare programmes.

The Ministry of Labour and Transportation Management, the Ministry of Land Reform and Management and the Ministry of Local Development are the high-level government actors engaged in the *kamaiya* issues. Similarly, some of political parties, namely CPN (UML) and United Peoples' Front, Nepal, have politically presented themselves against the *kamaiya* system, as evidenced by their election manifestos and other relevant political documents.

GEFONT and its affiliates are among the pioneering trade union organisations to raise the issue of bonded *kamaiyas* with a fully determined aim to convert the bonded labourers into free labourers. DECONT, another trade union confederation, has also emerged as an actor in the post-liberation scenario.

Likewise, different INGOs and international agencies such as, ILO, Action Aid, Lutheran World Service, Plan International, DANIDA, and UNICEF, are other important actors to support and facilitate the release

and rehabilitation of *kamaiyas*, both financially and technically. A number of national as well as local NGOs have also actively contributed to the process. Among them are INSEC, RRN, BASE, SPACE, GRINSO, SAP-Nepal, and NLA.

With the support of trade union organisations and civil society organisations, the *kamaiyas* themselves have also undertaken a number of activities before and after the liberation. The chronology of activities and interventions against the *kamaiya* system in Nepal is presented in Annex-1.

In the post liberation context, dozen of government agencies, NGOs, INGOs, trade unions, media, CBOs and human right organisations have been working in various VDCs and municipalities of all the five *kamaiya* prone districts. The government claims that its interventions cover all VDCs and municipalities where *kamaiyas* and *kamaiya* families are clustered.

2.4 Type of Interventions

The government agencies implemented *kamaiya* livelihood programmes with a welfare approach. Trade unions have followed a rights-based approach with emphasis on release, minimum wages and guarantee of employment, whereas NGOs, INGOs and other actors provided a package that built on both awareness raising and service delivery.

2.4.1 Mass Movement

Immediately after the downfall of the autocratic Rana rule in 1951, there were a series of revolts against landlords in Badalapur, Bewa and Khanyan of Bardiya district. But the revolts were not systematically organized. In 1973, *kamaiyas* of Khargauli village of Kailali district organized a mass protest, led by Joshi Ram Chaudhari, against the newly introduced wage system imposed by the landlords unanimously. The system changed wages into in kind payment replacing the earlier practice of providing a piece of land in the form of wages. Similarly, the *kamaiya* of Thumani Kuinetai of Bardiya district launched a movement in 1979/80 demanding the abolition of the *kamaiya* system.

All Nepal Peasants' Organisation (ANPA) has taken up the issue of *kamaiyas* since 1985 with the aim of liberating peoples from slavery-type exploitation, eliminating illegal debts and distributing land to the tillers.

A committee was formed by the government in 1990 to suggest the appropriate ways for solving the problems of *kamaiyas* and other agricultural labourers. A *Sankalkpa Prastav* (commitment motion) was registered during the first session of parliament in 1991 in the House of Representatives. But the motion did not get through because of objections by the then ruling Nepali Congress party, who stood in favour of the landlords. The *kamaiya* issue was taken seriously for the first time during the minority government of CPN (UML) in 1995. The government allocated budget for the release and

rehabilitation of *kamaiyas* for the first time in Nepal's history.

In early 1990s, a few active Tharu youths of Kailali and Bardiya districts held a meeting in the name of Tharu cultural programme. The meeting gathered together a good number of *kamaiyas* and their family members, and poor Tharu tenants. The meeting tried to sensitize these people and spread a message amongst them as to how they had been exploited by the landlords. This emboldened the participating *kamaiyas* to initiate a movement for higher wages for the work and reduction in working hours. Despite the landlords' attempt to suppress the movement by force, the agitators increased the pressure by launching a strike forcing the landlords to increase annual wages and provide two pairs of clothes annually. This movement laid the foundation for their liberation.

In the course of developing the movement, the *Kamaiya Mukti Aandolan* (*kamaiya* liberation movement) was initiated by *kamaiya* themselves in early 1994, which was technically supported by INSEC as part of its human rights awareness raising initiative.

In 1995, a national conference of the *Aandolan* was organised. The conference decided to transform the *Aandolan* into a trade union forum and renamed it as the *Kamaiya Mukti Manch* Nepal (Kamaiya Liberation Front Nepal – KLFN). The *Manch* got affiliations with GEFONT, formed district committees in all five districts and local committees at local levels, and started to launch various

protest programmes under the banner of the Manch at district and VDC levels.

Soon after, under the slogan of 'let's convert slaves into the free poor', the KLFN and GEFONT initiated a campaign called an 'appeal movement'. This movement appealed the landlords and rich farmers to, among others, free the *kamaiyas*, cancel their debts and provide minimum wages. The movement was successful to organise *kamaiyas* and mobilise them to pressurise landlords.

Many INGOs, NGOs and CBOs joined the appeal movement and formed a Kamaiya Concern Group (KCG) to persuade and pressure landlords and the government authorities into acting swiftly (Sharma, 1998: 65). The aim of the KCG was to avoid duplication in action of the various actors. The terms of reference developed by the members of KCG were:

- To ensure flow of information among the KCG members about their plans and actions
- To coordinate, by GEFONT, organising and mass mobilisation part of the movement
- To assist in the rehabilitation of the *kamaiyas* with livelihood and other support (in the case of other partners)

The appeal movement led to the release of a few *kamaiyas*. However, it could not appeal to bigger response from the landlords. As the second phase, the Kamaiya Liberation Movement Mobilisation Committee was formed and a movement was launched with three major demands:

- *Saunki Minaha* (debt cancellation)
- Implementation of minimum wages as guaranteed by the law
- Compensation by the landlords for arrears accumulated by denying the payment of minimum wages

A number of *kamaiyas* filed complaints against their landlords at different VDCs and DDCs demanding a minimum wage as fixed by the government in 1999. In the meantime, 19 *kamaiyas* of Geta VDC, Kailali filed complaints in the VDC Office demanding freedom from bondage imposed by the landlords and compensation for their surplus labour. Following this, a large group of 676 *kamaiyas* from Dang, Banke, Bardiya, Kailali, and Kanchanpur districts filed such petitions at the respective CDO Offices in 2000 June. When the movement was mounting, some rich farmers, including a few local political leaders, let *kamaiyas* under their control go.

Then, a group of *kamaiyas* travelled to Kathmandu to mount pressure on Members of Parliament and other high-level government officials. The *kamaiyas* organised a series of protests in Kathmandu, which appealed to a broad support from human rights activists, I/NGOs, trade unions and the entire civil society and some political parties. Bowing to the pressure, the parliament took a bold decision to declare the liberation of *kamaiyas* on 17 July 2000. The practice of bonded labour system was thus declared illegal, all bonded *kamaiyas* become free from *saunki* and all previous contracts with their landlords, oral or written, were nullified. The declaration also

pronounced punishments for those who continue with the practice of bonded labour.

Immediately after the declaration of *kamaiya* liberation, the government, trade unions and different local and national NGOs and CBOs reached the freed *kamaiyas* with short-term relief and long-term rehabilitation.

2.4.2 Legal Interventions

Nepal has ratified various international human rights conventions committing itself against exploitative forms of labour, among others. Nepal is a signatory to the Slavery Convention and its Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery 1956. As a state party to this Convention, Nepal has assumed the obligation to take all practical and necessary legislative and other measures to bring about progressive abolition or abandonment of institutions and practices relating to slavery and slave trade including debt bondage and serfdom. Nepal is also a member state of ILO, and, as such, is bound to honour, incorporate and implement letters and spirit of ILO conventions, particularly the Forced Labour Conventions No. 29 and 105. As a member state, Nepal is also obliged to translate into practice other core conventions of ILO No. 87, 98, 100, 111, 138 and 182, whether ratified or not.

Nepal has a constitutional ban on forced or bonded labour since the 1990 Constitution. The current Interim Constitution of Nepal, 2007 adds additional vigour to the spirit of the erstwhile constitution. The Articles 29 and

30 provide a number of provisions prohibiting forced and bonded labour and regulating other labour practices. Similarly, the Kamaiya Labour (Prohibition) Act, 2002 was enacted after the abolition of the *kamaiya* system to provide a legal backup to the freed of *kamaiyas*. In addition, the Civil Rights Act, 1956 and the Civil Code, 1964 also have provisions both banning and/or regulating certain forms of labour practices (Table 2.1).

Table 2.1: Summary of Major Provisions against Bonded Labour in Nepalese Laws

Laws/Acts	Year	Provision
Interim Constitution of Nepal	2007	Right against exploitation; right against human trafficking, slavery or bonded labour and forced labour; right to proper work practices; and right to trade unions, among other civil, political, social and economic rights
Kamaiya Labour (Prohibition) Act	2002	Freedom of all <i>kamaiyas</i> with the cancellation of <i>saunki</i> and nullification of bond or agreement; return of mortgage/ security; and punishment for maintaining <i>kamaiyas</i>
Child Labour (Prohibition and Regulation) Act	2000	Restriction on child labour
Public Prosecution Act	1992	Human trafficking cases are dealt with as a public offence
Labour Act	1992	Fixation of working hours and minimum wages; overtime payment, layoff, health and safety; and other welfare and social security measures
Trade Union Act	1992	Right to organisation and collective bargaining

Laws/Acts	Year	Provision
The Constitution of the Kingdom of Nepal	1990	Right to organisation; recognition of labour force as a main social and economic strength; protection of labour rights; prohibition of all forms of forced labour; and restriction on employment of minors in hazardous works, including any contraventions punishable by law
Traffic in Human (Control) Act	1986	Definition of human trafficking as a crime, punishment to defaulters
Muluki Ain (Civil Code)	1964	Provision against the practice of forced labour; restriction on enslavement; fixation of wages by mutual agreement; and compensation to the worker in case of non payment
Civil Rights Act	1956	Right to equality; right against discrimination; right to personal liberty; right to life; right against forced labour and prohibition of child labour

Kamaiya Labour (Prohibition) Act, 2002

The *kamaiyas* defined by the Kamaiya Labour (Prohibition) Act (Kamaiya Act) are those who provide *kamaiya* labour as '*bhaiswar*', '*gaibar*', '*bardikar*', '*chhegarbar*', '*haruwa*', '*charuwa*', '*hali*', '*haliya*', '*gothala*', '*kamlariya*', '*bukrahi*' or under other similar systems. Key provisions in the Kamaiya Act include the following.

- Persons working as *kamaiya* workers at the time of the commencement of this Act shall be freed
- No person shall keep *kamaiya* labourer after the enactment of this Act
- *Kamaiya* workers need not repay the *saunki*
- Bond or agreement (written or verbal) relating to the *kamaiya* loan shall be cancelled
- Any property obtained by the creditor as a mortgage/security while supplying *kamaiya* loans must be

returned to the concerned person within three months from the date of enactment of this Act

- A defaulter should pay a fine ranging between NRs 15,000 to NRs 25,000 to the government. He should also pay a worker double the amount of minimum wages fixed under this Act for each day of compulsory or forced work. Those who fail to return mortgaged property shall pay a fine of NRs 10 to 15 thousand along with the property. Those who employ a person without pay or with a pay lower than the minimum wage shall pay a fine of NRs 1 to 3 thousand and double the amount of the minimum wage for each day of work to the worker concerned. In the case of a person holding a public post, the amount of penalty will be double the normal one. The same is applicable to a defaulter who acts in contravention of the Act more than once.

The single aim of the Kamaiya Act is to eliminate the *kamaiya* system. Focused only on the *kamaiya* system, it however does not address other forms of exploitative labour that are akin to *kamaiya* labour. The Kamaiya Act is also weak in terms of holding the perpetrator to account. This is why most of policy-makers, high level bureaucrats and some political leaders have not discontinued maintaining *kamaiyas* in one way or another. In other words, the Kamaiya Act has failed to hit the class interest of these categories of people.

The failure in implementation is also caused by insufficiency of administrative and legal mechanisms.

Following summarise major reasons behind the failure in eliminating bonded labour.

- The laws relating to bondage are incomplete and unsynchronised,
- The laws and interventions do not sufficiently address the socio-economic causes of the bonded system and practices
- Existing laws do not provide an appropriate and standard definition of 'bonded labour'

Above all, pressure movements from below have been the only effective option left to fight the prevalence of bondage in the country.

2.4.3 Political Interventions

Before Liberation

In the past several years, various NGOs and INGOs have run different programmes for the improvements of *kamaiya* livelihood. The government interventions for the *kamaiyas* also started from 1995 by allocating a little amount in the national annual budget. In spite of the focus and the huge number of programmes initiated both by the state and NGOs, the *kamaiya* system has continued in different forms.

CPN (UML) had incorporated the issue of *kamaiya* in its election manifesto of 1991. It continued with the same commitment focusing on release from *saunki* and alternative employment opportunities. In order to explore the actual situation of *kamaiyas* a survey was conducted through Squatters Problem Resolution Commission

(SPRC) in 1994, which recorded 17,435 *kamaiya* families. The Ministry of Land Reform and Management prepared a household list of 15,152 families from the five districts in 1996 and revised it to 18,400 in the year 2000. A survey conducted by INSEC in 2001 has found 17,728 families under the *kamaiya* system.

The government and other institutions launched some major intervention programmes for the welfare of the *kamaiyas* and their family. By accepting in 1995 the *kamaiya* system as a bonded labour system, the government started to allocate budget under *Kamaiya Rin Mochan Tatha Britti Bikas Karyakram* (*kamaiya* debt cancellation and skills development programme) under the Ministry of Land Reform and Management. Later on, this programme was renamed as *Kamaiya Punarsthapana Tatha Britti Bikas Karyakram* (*kamaiya* rehabilitation and skills development programme) after the declaration of *kamaiya* liberation. In addition, the Ministry of Labour and Transport Management launched the *Kamaiya Mahila Ship Bikas Karyakram* (*kamaiya* women skills development programme) in all five districts.

After Liberation

Immediately after the government declaration of *kamaiya* liberation, a nine member Coordination and Monitoring Committee was constituted under the chairmanship of the Deputy Prime Minister to deal with problems associated with *kamaiyas* at the central level. Likewise, sub-committees were formed in *kamaiya* prone districts under the chairpersonship of concerned DDC

Chairpersons. The purpose of these committees was to identify and rehabilitate the liberated *kamaiyas*.

After liberation, the relationship between *ex-kamaiyas* and landlords turned antagonistic. As soon as the news of liberation surfaced, the landlords started to evict the *kamaiyas* from their huts within the landlords compound. The government did not introduce any measures for the human security of the *kamaiyas*. It declared their freedom and remained silent.

It was the peak of farming season. The landlords invited Indian seasonal labourers for the farm work from villages bordering India. This was a tactic used by the landlords to create pressure on the *ex-kamaiyas* to weaken their bargaining power, a power the *ex-kamaiyas* had gained from the new found freedom.

To sum, in the post liberation scenario, the *ex-kamaiyas* are being supported with some skills trainings, micro credit as well as other programmes to enhance their economic status. But these programmes are limited in coverage and services to cope with the breadth and depth of demands.

2.4.4 Socio-Economic Interventions

The course of action adopted by the UML government included household listing of *kamaiya* family, *kamaiya* group formation, creation of mobile fund for each group to help *kamaiya* families, mobilization of group saving, repayment of *saunki*, land purchase and distribution to the landless *kamaiya* for house construction and

generation of alternate employment through skills development. Before liberation, 752 groups were formed, 7.7 million rupees were mobilized as a mobile fund starting from 1.5 million in 1995. Of the total fund, the government contributed to 84 percent and the rest came from the ILO.

Before the liberation of *kamaiyas*, the Department of Land Reform initiated the Kamaiya Livelihood Programs (KLP). By 1998, KLP had accomplished some activities for the welfare of *kamaiya* families in all five districts. The programme had formed 304 groups including 10-25 households in each group. Altogether 4,840 households had been formed, which included some 32 percent of the total *kamaiya* households.

Table: 2.2 Kamaiya Households and Self-Help Groups

Districts	Total Kamaiya Households	Total Groups Formed	Households Involved	Percent of Total Households
Dang	1,850	32	436	23.5
Banke	1,060	32	480	45.3
Bardiya	5,037	60	1,063	21.1
Kailali	5,557	114	136	38.4
Kanchanpur	1,642	66	725	44.1
Total	15,152	304	4,840	31.9

Sharma (1998)

The Ministry of Land Reform and Management had also conducted various skills development programmes, and provided up to NRs 30,000 per group to conduct income-generating activities from the mobile fund.

The Ministry of Labour also conducted various trainings focusing on sewing, weaving, adult literacy, family planning and maternal health, and kitchen gardening for *kamaiya* women encouraging them to adopt income generating activities outside agriculture. The Ministry also contributed through DDCs and the Western Terai Poverty Alleviation Programme.

A rough estimate based on a study in Dang shows nearly 50 percent participants of the participants of skills development programmes used the skills for generating income. Among them, females were found to be head of males. On an average, about 6,000 *ex-kamaiya* families benefited from the food for work programme conducted by the government with support from GTZ. This programme mainly targeted *ex-kamaiyas* under group 'A'.

Various NGOs and INGOs have also launched several activities. The main forms of interventions include formal and non-formal education, income-generating schemes, campaigning for health care, micro health insurance schemes, implementation of minimum wages, skills training, vocational training, micro-credit, drinking water, school building, and research studies on release and rehabilitation of *ex-kamaiyas*.

A huge amount of money has been spent in implementing these activities. The exact amount of expenditure is not available. However a study estimates that around NRs. 300,000 has gone per family (NHDR, 2004:62).

After the liberation, advocacy and lobbying programmes were changed into short-term relief and long term development and rehabilitation programmes.

NLA and GEFONT launched a website (www.bondedlabour.net) in order to collate and disseminate information on bonded labour for use by researchers, activists and other concerned.

The *kamaiya* release and rehabilitation interventions are caught between reality and rhetoric. In some cases, the actors have failed to correctly define what the release and rehabilitation would constitute. In other cases, overwhelmed by a utopian illusion, they have dreamed of establishing a colony, such as *Mukti Ashhram* (liberation shelter) for liberated *kamaiyas* to stay with modern facilities and infrastructures. The actors involved in addressing immediate needs of *kamaiyas* are found to vary widely in terms of approaches and responses. Some focused on elevating their status on a par with the poor. Others advocated for 'education only' while forgetting organisation, mobilisation and awareness aspects. Some even opted to 'fight to the finish' with landlords while others still felt that landlords should be given a choice to release their *kamaiyas* voluntarily.

One finds the role of parliament and parties marred by confusion and dubiousness. It was a highly appreciative work on their part to adopt a unanimous motion liberating the *kamaiyas* from serfdom. However, their failure to translate the motion raised a serious moral question: are they really serious to mean what they say?

Liberation without economic empowerment has done little to mitigate the misery facing the *kamaiyas*, "... many have had to bond themselves anew for survival" (NHDR, 2004: 200). In lack of a comprehensive empowerment package, there is a real possibility that the bondage prohibited may take on new forms. Some of *ex-kamaiyas* have already entered into exploitative sharecropping relations and others have pledged free labour of their children for access to tenancy.

III. ACHIEVEMENT FROM REHABILITATION

3.1 Achievements from Interventions

With abundant research and documentation detailing that the *kamaiya* system embodies bonded labour, and heightened activism against the system, the government of Nepal announced the *kamaiya* system illegal in July 2000. This provided the *kamaiyas* with a reason to be jubilant, which they expressed dancing and celebrating. It was the moment of extreme happiness they had ever experienced in their life! Most of them had hardly imagined then that the freedom would provide them only literal ‘freedom’ and not material benefits from the freedom.

Most of the *kamaiyas* who were homeless and landless, and depended on the landlords for food, shelter and work were driven away by angry landlords following the declaration of freedom.

Some of the landlords threw their goods away from their *Bukra* while others shut their doors with all the goods whatever the *kamaiyas* had. Some landlords even attacked *kamaiyas* physically accusing them of stealing their goods and got them arrested. Some of them evicted by landlords sought shelter in DDC and VDC compounds. Some others scattered hither and thither searching for jobs. A few of them even returned to their landlords compelled by the situation to work under conditions which was worse than the one earlier. Majority of them spent months in filthy camps, facing difficulties coupled

with sickness and lack of bare necessities. During the transition period they passed days and nights searching for work every day living in a leaking hut.

The government, UN agencies, particularly ILO and WFP, and I/NGOs responded to the situation with a rush to rehabilitate the *ex-kamaiyas*. The government committed and provided land titles to almost 12,000 *ex-kamaiyas*, provided NRs 10,000 assistance for house construction and coordinated the activities of development partners. Other interventions ranged from appeal movements through advocacy, awareness raising, education (vocational, formal and non-formal), water supply, toilet construction, skill development training to income generating activities. By and large, the interventions have been quite effective to alleviate the pain of the *ex-kamaiyas*.

The research reports produced by INSEC, GEFONT, NLA, SPACE and GRINSO provided factual inputs to activists and also served to convince national and international stakeholders that debt bondage was prevalent in the *kamaiya* system. Research and activism that started in early 1990s against the *kamaiya* system provided a base for later interventions that brought down the system.

3.2 Status of Release and Rehabilitation

According to the government source, a total of 18,400 *kamaiya* families were liberated through the July 2000 declaration. Among them, 13,461 *kamaiya* families were identified as landless in 2000. However, some 10.7 percent of the landless *kamaiya* families were not found

while distributing land in 2002. The remaining families, about 12,000 families, have been given each a land ownership certificate of 0.017 hectare to 0.169 hectare at different places. After the continuous pressure of victim themselves as well as different NGOs and trade unions, the government prepared another list of landless *ex-kamaiyas* who were left out in the first list. Pressure still exists to expand the list of left-out *kamaiyas*, and this is largely because of a wish to benefit from land distribution and targeted interventions. And it is likely that the new claimants, whose number keeps on rising, may further complicate the *kamaiya* problem.

The government also provided Rs 10,000 and 35 cubic feet timber for construction of house to those who were homeless. All got the cash support but only a few were provided with the timber support. At least one member of targeted *kamaiya* households also benefited from skills training which the government started to implement before their liberation. This intervention continues till now. The government was also involved in forming *kamaiya* groups and mobilizing them through saving and credit activities. This activity has also received continuity after liberation, and almost all *ex-kamaiyas* are included in the groups.

The HMG/N has rehabilitated the landless *ex-kamaiyas* in different 124 centres, 119 of them in VDCs and 5 in municipalities (Table 3)

Table: 3 Number of Rehabilitation Centres and Rehabilitated Families

District	No of Families	No of Centres	No of VDCs	No of Municipalities
Dang	445	33	31	2
Banke	901	21	21	-
Bardiya	3,586	28	27	1
Kailali	4,288	36	34	2
Kanchanpur	2,799	6	6	-
Total	12,019	124	119	5

Source: MoLRM (Bhadra, 2060 BS).

Thus, of the total 18,400 liberated *kamaiya* households, some 12,000 landless *kamaiyas* became the main target of interventions. Other with a piece of land and a house were not addressed, and there is a lack of information as to how these households have featured in terms of labour relations and socio-economic performances. Following sections aim to look at changes that have occurred among the targeted 12,000 *kamaiya* households as a result of the intervention.

3.3 Assessment of Socio-economic Conditions

In order to assess the existing situation, 120 *ex-kamaiyas* were randomly selected and interviewed using a structured questionnaire in 2004. The information was compared with the baseline survey conducted by the National Labour Academy-Nepal in 2002. The results of the comparative assessment follow.

3.3.1 Education

The number of illiterate *ex-kamaiyas* has decreased from 62 percent in 2001 to 41 percent now. Female members of

ex-kamaiya families have benefited more from education programs than their male counterparts as illiteracy rate of male went down from 55 percent to 38 percent whereas that of female went down from 70 percent to 45 percent.

A major concern of the interventions was to send all school age children, aged 6-17, to schools. These programs seem to be gaining some positive results as the percentage of the children attending schools has increased from 55 percent at the time of baseline to 79 percent now. The percentage of female children going to school was 46.6 percent and that of male was 61 percent at the time of baseline, which is increased to 80 percent and 78 percent respectively. It can also be noted that the lower the age group of the children the higher is their chance to attend schools.

3.3.2 Health

Programmes for the *ex-kamaiyas* and their families also emphasised on awareness on health and sanitation. Asked about the improvement occurred in the family health situation, 74 percent said that it was better, 22 percent reported that it was the same as before and 4 percent said it was worse. The interventions, including immunization and other services, have reached all *kamaiya* family members.

3.3.3 Economic Condition

Land was distributed to all *ex-kamaiyas* belonging to categories 'A' and 'B'. So far, 97 percent *ex-kamaiyas* have received land with the average size of 0.12 hectare. At

the time of the baseline, only 80 percent *ex-kamaiyas* had received the land

Ex-kamaiya themselves think that their income level has improved as compared to the baseline period. Of those interviewed, 71 percent said it has improved, 24 percent said that it has worsened and 5 percent reported that there has been is no change in the economic situation.

3.3.4 Occupation

Some 58 percent of adult *kamaiya* family members work in agriculture on a daily wage basis and 2 percent on a long-term wage basis. The family members working in the non-agriculture sector on a wage basis constitute 21 percent. Similarly, the percent of family members working as domestic workers within the village is 17 and those working outside the village constitute 0.7 percent. It is seen that the female involvement is higher in domestic work. Comparison shows that the number of *ex-kamaiyas* working on a long-term contract is decreasing slowly and that of non-agricultural wage labour is increasing. There has been a shift in employment relations after liberation.

The minimum wage fixed by the government is Rs. 60 for 8 hours of work, Rs 7.5 per hour. It was reported that former *kamaiyas* work around 10 hours a day and they get Rs. 86 and their wives work as much hours and get Rs. 75. This shows that both *ex-kamaiyas* and their wives get minimum wages. The comparison shows that working hours per day has come down and the wage rate has increased.

3.3.5 Basic Needs Fulfilment

All former *kamaiyas* reported that they own a house. The highest number of *ex-kamaiyas* has tile-roofed houses (45 percent) followed by thatch-roofed (38 percent) and tin-roofed (17 percent). There were no reports of plastic-roofed houses, which was around 3 percent in the baseline period.

Ex-kamaiya households having toilet facilities has also increased from 9 percent to 88 percent over the intervention period. The targeted interventions had tied drinking water and housing support with toilets, which has resulted in the impressive result.

Availability of potable water is another major basic need that the interventions targeted. The major sources of drinking water are tube well (97 percent) and tap-water (3 percent). The average time taken to fetch water is 3 minutes from tube well and 4 minutes from tap. It is notable that time taken to fetch water has reduced considerably (from 13 minutes to 3 minutes) in the current situation.

IV. CONCLUSIONS

The government of Nepal has mounted an attack on the *kamaiya* system prevalent in the agriculture sector since the year 2000. Considerable research and documentation of the labour relationships involved was available beforehand. Initially, the government did not intend to formally recognize the problem, and intended to limit the concern and activities to development interventions only. But the mounting national and international pressure forced the government to outlaw the system.

- a. *Kamaiyas* were successfully freed from bondage through a government declaration and later by introducing the Kamaiya Act. However, there are lacunas in the Kamaiya Act that should be amended. First, it is specifically designed to handle the *kamaiya* problem only, and not all bonded labour systems and problems. Second, the Kamaiya Act has not made mandatory provisions to rehabilitate the *ex-kamaiyas*. Third, the monitoring provision through national and district level committees made in the Kamaiya Act have hardly been implemented. The government needs to be serious towards these issues and dynamics.
- b. The government has done a commendable job by allocating some land to the *ex-kamaiyas* without land. This has helped reduce their vulnerability, and the risk of reverting to the old labour system. However, some *kamaiyas* have yet to get such allocation. This delay has prevented them from benefiting from interventions pegged to the owning of land. The second problem to

note in regard to the land allocation is that most of the recipients of land title have been relocated outside their village. This has shattered their social relation, and has limited their employment opportunities. In the new place, the workers have to compete with the local people for both employment and services such as education and health. Optimally, the freed *kamaiya* should have been allocated land in their own village, so as to save them from 'adjustment' worries and risks.

- c. There has been proliferation of development interventions by many international organisations. Many are working with sectoral focus, and many with limited area and limited number of *ex-kamayyas*. This naturally has lacked coordination and synergy. The current method of working has addressed the plight of free *kamaiyas* only momentarily. Once resources exhaust, there is a risk of the problem being revived. The Ministry of Land Reform and Management, which is overseeing the *kamaiya* problem, is not well placed for the coordination role. In the past, it was involved only in maintaining land records and working for land development. There should be a mechanism at the governmental level to ensure proper coordination of the many interventions being made from various quarters.
- d. The *kamaiya* issue was initially projected as the adult male labour problem despite abundant information about women and children being affected badly. All interventions, including land distribution, have been

male-biased. The female *kamaiyas* have not been considered while granting land titles. This poses a danger that women members of *kamaiya* household will remain far behind their male counterparts.

- e. Some of the unintended consequences of the abolition of the *kamaiya* system need immediate attention, including the exploitation of *ex-kamaiya* and their children.
- f. The escalating insecurity situation in the region and in the country as a whole also has bearing on the intractability of *kamaiya* rehabilitation issue. The delay in solving the *kamaiya* problem added fuel to the Maoist insurgency in the past while the insurgency also created severe restrictions in terms of the flow of resources to the targeted people.
- g. The practice of bonded labour is not confined to *kamaiya* system only. Research and consultations reveal that similar types of problems exist in various forms and names all over the country. The magnitude of the workers involved in bonded labour systems is estimated to be around 300,000. This is too large a number to be left unattended. The government and other stakeholders must take note of this and prepare themselves to systematically address the problem.
- h. Freedom from exploitation and slavery is a human rights issue. Unionisation and collective bargaining are the means to ensure civil and political rights of the workers. The role of trade unions and human rights

organisations is crucial on this front. In addition, the economic rights, such as the right to work, social protection and decent minimum wages should be made as 'absolute minimum' while developing and designing interventions. The lack of these elements have tended to make the interventions as emergency welfare programs with limited effects in terms of transforming the environment and conditions in which *ex-kamaiyas* work and survive.

- i. In spite of inherent problems seen during the rehabilitation of *kamaiyas*, the field survey indicate that all landless *kamaiyas* have land ownership, houses with a toilet facility and access to drinking water. Children attend schools. At least one member of the household has got skills training. The households are members in saving and credit groups. Almost all workers receive at least a minimum wage. Children are increasingly withdrawn from child labour. Trade Unions have begun their work to unionize *ex-kamaiyas* along with other agricultural labourers in the districts. All this suggests that the interventions have brought positive results.

Some Unintended Developments

Some unintended developments have also surfaced over the last four years. First, almost one third of the *ex-kamaiyas* are said to rent land from the landowners under sharecropping arrangements. This arrangement is attached with various exploitative elements, one of them being the supply of free labour to landowners. There should be a careful monitoring of evolving environment

so as to avoid labourers from being trapped in other forms of bondage and exploitation while fighting one form.

Second, child labour problem seems to have remained intact over the years among the *ex-kamaiya* households. Six out of every 100 *ex-kamaiya* households still send children to work as domestic workers in urban areas (Sharma and Sharma, 2001).

Third, the *kamaiya* rehabilitation activities were implemented at a time when the security situation in the *kamaiya* districts kept on deteriorating because of Maoist insurgency. As such, land distribution and supply of other services could not be successful. This needs a review in the changed context.

Fourth, assistance to *ex-kamaiyas*, both by the state and others actors, have created a feeling among other poor and deprived groups that they are being discriminated. The absence of programs to address their problem has also created some tension between *ex-kamaiyas* and the excluded groups (Acharya-ILO 2003).

Fifth, in the locations where a large number of *ex-kamaiyas* are resettled, local infrastructure such as schools, health posts and drinking water facilities have become overcrowded. There needs to be a commensurate expansion of such facilities to nearby areas in order to avoid a clash between original inhabitants and resettled *kamaiyas* with regards to the use of these facilities.

Sixth, almost all interventions are directed to *ex-kamaiya* of type 'A' and 'B'. Other *ex-kamaiyas* accounting for almost half of the total *kamaiyas* at the time of liberation are being left out from the intervention process. Not much is known about them as to how they are coping with the changed relationships brought about by the outlawing of the *kamaiya* system. They should be traced and monitored and their situation should be addressed.

Finally, the entire *kamaiya* rehabilitation project should be approached from the human rights-based approach, an approach that encompasses all the discriminated lot, provides a comprehensive response to the problem, engages the concerned in the process of redress and holds the perpetrators to account.

Annex I Major Events [1990-2005] Leading to Kamaiya Liberation and Rehabilitation

1. In 1990, All Nepal Peasants Association (ANPA) held its third national convention in Pokhara. Representatives from Kanchanpur, Kailali, Bardiya, Banke and Dang districts raised the issues of *kamaiyas*. A few days later, INSEC human rights activists Mr. Sushil Pyakurel and late Prakash Kafle took initiatives, in collaboration with the ANPA, to conduct the first ever detailed survey on the state and status of *kamaiyas* in Kanchanpur, Kailali and Bardiya districts.
2. In the first parliamentary session, in 1991, the then General Secretary of the ANPA, Mr. Keshav Badal, tabled a commitment proposal on 'kamaiya liberation and giving them land rights'. The then government, however, refused to put the proposal to discussion.
3. Informal Sector Services Center (INSEC) published the report titled, "Bonded Labour in Nepal under Kamaiya System" in 1992. INSEC also launched rights based interventions among *kamaiyas*, and intensified policy lobbying at national and international levels.
4. A report of the census of *kamaiya* households was published by the government in 1995. A total of 17,435 *kamaiya* households were identified. In the same year, a little later, the Department of Land Reform enumerated only 15,152 *kamaiya* households.
5. 'Kamaiya Liberation Front' was formed in the initiation of GEFONT in 1995.
6. Government earmarked some funds for rescue and rehabilitation of *kamaiyas* in 1995/96. The funds were allocated for enumeration of *kamaiya* families, *kamaiya* group formation, establishment of revolving fund, and skills training for alternative employment, among others.
7. Interventions were intensified by organizations such as INSEC, BASE, RRN, GRINSO and GEFONT.

8. International organizations such as ILO, Plan Nepal, Action Aid, Anti Slavery International, MS Nepal and Lutharan Word Service started to work on the *kamaiya* issue.
9. 'Kamaiya Concern Group' was formed comprising civil society organizations for coordinated action and policy lobbying.
10. ILO published the "Kamaiya System in Nepal" in 1998.
11. INSEC published the "Revisit to Kamaiya System in Nepal" in 1999.
12. A minimum wage was introduced in the agricultural sector for the first time in Nepal's history, fixing Rs 60 per day for eight hours work in 1999.
13. Cases against exploitation and bondage were registered with local governments. Agitations started to mount for liberation with some individual employers letting their *kamaiyas* go.
14. In the face of escalating pressure in all *kamaiya* prone districts, the government announced the liberation of *kamaiyas* in July 2000. *Ex-kamaiyas* were enumerated again. Some 18,400 households were identified, of which some 13,000 were completely landless.
15. ILO, Geneva published the "Bonded Child Labour Among Child Workers of the Kamaiya System: A Rapid Assessment" in 2001.
16. Kamaiya Prohibition Act was brought in 2002.
17. Rehabilitation and support activities were intensified by the government, national and international agencies. The government distributed land to landless *ex-kamaiyas*. This provided basis for ILO to implement "Sustainable Elimination of Bonded Labour in Nepal" project in December 2001.
18. Baseline data was collected from liberated *kamaiyas* by National Labour Academy for ILO. The information was compiled into the "Socio-economic Information on *Ex-kamaiyas* of Nepal."

Annex 2 Key Words

Key Words	Meaning
Aailani	Barren land owned by the government
Aandolan	Movement
Baali	Annual wage to the Hali, Damain, Kami, Barbar by the individual family as their annual wage.
Baandha	Bonded labour
Baisi & Chaubisi	Principalities existed in western Nepal within the territory of 'greater Nepal' before the unification
Bhaisbar	Buffalo herder
Bhota	Loan borrowed by a <i>kamaiya</i> from his master mostly known by <i>Saunki</i>
Bhunde	Any person who are involved in agriculture and other worst forms of work at others place to earn their daily food prevailed in different mountain districts of western Nepal.
Bhunde Khet	Small patch of land (only to take the production not to the ownership) provided to the <i>bhunde</i> in lieu of his service, until he serves the master.
Bigha	A certain Proportion of land (5 to 20 percent of the total land he cultivates) given to the <i>kamaiya</i> to cultivate and consume whole production of that land in return of work done by him.
Birta	Tax-free land provided by the government to the civil servant, priests, religious teachers, soldiers, members of the nobility and royal family, land like private property but had obligation to the state to engage in war, religion or politics in the interests of the rulers. The system was abolished in 1959.
Birtawal	Those who got <i>Birta</i> land

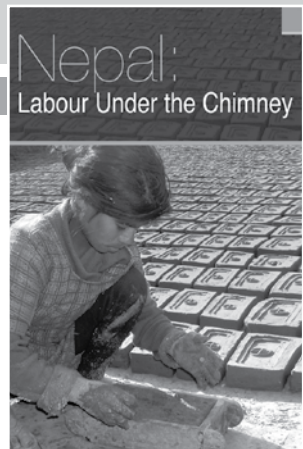
Key Words	Meaning
Bista	The word is used to address to the 'high caste people' by the serving caste. The serving caste who serve as traditional professional to the higher castes family and get wage in kind in lieu of his services.
Bora	Terms of wage payment in kind, a <i>Bora</i> is equivalent to 75 kg. Paddy
Bukra	A residence (hut) provided by the landowner to his <i>kamaiya</i> until and unless he works with the landowner.
Bukrahai	Female member of the family working to the landowner with her husband or any male member of the family in other words attached adult female worker
Chakar	The worker, employed to carry out all type of works (agriculture and domestic) for a specified period of time on a fixed lump sum amount or monthly wage is known by Chakar among the Rajbansi community of Jhapa district
Charawa	Cattle herder
Chardham-Theki	A cash levy payable on rice land in the hill region including Kathmandu valley. Now it has been abolished
Chaukar/ Chaumali	25 percent of the total production
Chhekarbar/ Chhegar	Goat herder
Chheuti	A small piece of residential land along with kitchen garden given by their master to the <i>kamaiya</i> until they work with him
Daas	Slave
Dalit	Serving caste, and traditionally they are untouchable and known as <i>Dalit</i>
Devdas/ Devdasi	Guard of the temple, who is responsible to the security and cleaning of the temple

Key Words	Meaning
Gaibar	Cow Herder
Gothalo	Cattle Herder
Guthi	An endowment of land made for any religious or philanthropic purpose
Hali, Haliya, Haruwa	The tiller/ploughman working on wage mostly in permanent contract with the land owner
Haliya Nokar	Domestic servant mostly used for ploughing land
Jagir Land	Land provided to the civil servants and military personnel as their remuneration. The land is tax free and nontransferable.
Jamindar	Landlord
Jari	An adultery compensation paid by adulterer
Jhara	Forced, compulsory and unpaid labour obligation to the state, but it was also used by the revenue collecting agents, landlords and high government officials in various parts of the country
Kalapani	The forest areas were called as Kalapani where malaria was widespread
Kamaiya	Adult male member working to the landowner on permanent contract mostly on lieu of interest of debt
Kamalhariya	Child worker from <i>kamaiya</i> family working to the landowner mostly as attached labour
Kariya	Traditionally used Nepali word to denote slave
Kattha	A measure of piece of land approximately 1/30 of a hectare
Khukuri	A Nepali knife, symbol national weapon, and bravery of Gurkha soldier all over the world
Kipat	A system of communal landownership prevalent among the Rai/Limbu and other Mongoloid communities in the hill region

Key Words	Meaning
Maghe Sakranti	First day of the Magh, which falls in mid-January
Maghi	A great festival of the Tharu community. This day is also known as a black day to the <i>kamaiya</i> because during this <i>Maghi</i> buying and selling of <i>kamaiyas</i> takes place as a goods in the labour market
Mahat	A Tharu headman/leader elected or selected by their communities to regulate the community affairs traditionally
Masyaura	The food given to a <i>kamaiya</i> , (both food provided to him at his masters' kitchen and a definite amount of grain along with pulse, salt, oil etc given to him for fooding). In some places wage of the workers are also included on <i>Masyaura</i>
Mukti	Liberation
Nayamuluk	The land returned by the British India to Nepali government (Banke, Bardiya, Kailali and Kanchanpur districts of present Nepal)
Panchakur	20 percent of the total production
Parma	Labour exchange system
Parti zamin	Fallow land
Phagune	Free labour obligation to the state/authorities during the winter by the common people
Raikar land	It is a government land owned by the general public paying revenue annually to the government.
Rajya	State owned land, petty Rajas of principalities owned as intermediaries. They used to collect revenue from the cultivators and pay to the state as fixed by it or their margin. The land was similar to the <i>Raikar</i> for cultivators though inalienable and indivisible.

Key Words	Meaning
Rakam	<i>Raikar</i> land assigned to the cultivators. The cultivators were obliged to provide unpaid labour on a compulsory basis to meet the government requirements, which is abolished in 1963.
Sankalpa Prastav	A motion move in the Parliament, which has political obligation prior to the next session of the Parliament
Saunki	Loan borrowed by a <i>kamaiya</i> from his master. In some places it is also known by 'Bhota'
Shawane	Free labour obligation to the state/authorities during the summer by the common people
Sir, Jirayat	Land given to the landlord involved collecting revenue under <i>Zamindari</i> system in the Terai for their personal use
Sukumbasi	Squatters
Tikur	A 33 percent share of production of a land mainly which a <i>kamaiya</i> is entitled to get in return of his work in that land from the beginning to the end (Land preparation for showing to harvesting)
Tundikhel	Open place used for parade or play ground
Ukahda	Under this system powerful landlord used to lease out the unregistered land under their jurisdiction and their sir, <i>jirayat</i> lands to the tenant farmers for cultivation and charged almost double land revenue than the prevailing rate and handover the state after deducting their commission. This system was prevailed only in Kapilvastu, Rupandehi and Nawalparasi districts of western Nepal since 1964.
Zimindari	A local landlord authorized to collect revenue from <i>Raikar</i> land in Terai from tenant cultivators on commission basis

Chapter 2



THE LABOUR
IN BRICK INDUSTRY

CHAPTER TWO

THE LABOUR IN BRICK INDUSTRY

Brick production in Nepal is quite an old enterprise. Bricks are part of Nepalese art and architecture from time immemorial. Old temples and monuments are the testimonial of the value of bricks in Nepal's long tradition of art and architecture. On analysis of the artefacts, pottery and remnants of old buildings found at the excavation of Lumbini and Tilaurakot, archaeologists estimate that the history of brick manufacturing date more than three thousand years back

The brick making enterprise is believed to originate in the Kathmandu Valley. It then spread to other parts of the country. Until the technology of firing bricks became popular, the use of raw and sun-dried bricks was very common. Some old houses constructed using raw bricks are still found in Kathmandu.

Bricks are part and parcel of rapidly expanding urban life across the country. They are both a necessity and a matter of social prestige and luxury. Bricks are essential building blocks for the construction sector, especially the growing housing industry, and are also required to give a building, both public and private, an artistic look. A decorative facade designed through especially produced

bricks add a touch of glamour to the building, and also tells of the social status of the owner.

Bricks and the current spate of urbanisation are inseparably interlinked. Without bricks the sole industry that characterises urbanisation in the Kathmandu Valley – the housing industry – is impossible. How does this brick production industry itself feature in this complex and competitive context of urbanisation? Who does this industry involve and what the terms of involvement are? This chapter has attempted to enquire into these questions based on a study carried out in select number of districts of Nepal.

2.1 CHAPTER BACKGROUND

This chapter builds on a survey conducted in five districts of three development regions of the country. Morang district was selected from the Eastern Region, Lalitpur and Bhaktapur were included from the Central Region, Tanahun was surveyed from the Western Region and Banke was included from the Mid-western Region. Altogether 1,135 brick kiln workers were interviewed, of whom 17.7 percent were female (Table 1.1).

Table 1.1 Number and Sex of Interviewees

Sex	Districts					Total
	Morang	Banke	Lalitpur	Bhaktapur	Tanahun	
Male	239	300	53	327	15	934
Female	91	18	11	71	10	201
Total	330	318	64	398	25	1,135

Brick kiln owners were also involved in information collection. Through a checklist-guided discussion, information from them was collected particularly about hiring pattern of workers and payment systems. Child workers working in brick kilns were also interviewed separately focusing on their status and situation as workers. In addition, detailed case study was done involving individuals doing a particular work in the brick making process.

The main objectives of the survey were to investigate and analyse critical issues and options associated with the life of the workers in the brick kilns; and, to generate policy recommendations towards addressing the issues and concerns vis-a-vis the life and working environment of the workers. More specifically, the study was informed by the following research questions:

- What is the overall condition of labour, including the pattern of employment, and terms and conditions of payment?
- How do these conditions and terms differ amongst groups of workers across different regions?
- What policy, institutional arrangements and programs are needed to address the issues and concerns?

Number and Types of Brick Kilns

The brick industry has grown parallel to urbanisation in recent years. And, the growth of both has been exponential. Mostly, brick kilns are found in the outskirts and interior of sub-urban areas. The brick industry falls under the category of small or cottage industry despite

the amount of investment in the industry, which in fact is very large.

In 1992, 340 brick kilns were estimated to be producing 550 million bricks a year throughout the country.¹ On average, 142 workers were employed in each industry in the Kathmandu Valley.² Currently, more than 500 brick factories are estimated to employ more than 400,000 workers.

There are three types of brick kilns that exist in Nepal, with (a) single chimney (b) double chimney, and (c) no chimney systems. In the Kathmandu Valley, almost all brick kilns are of a single chimney system with permanent chimneys. In *Terai* districts, brick kilns are found with both permanent and temporary chimneys. Brick kilns with permanently fixed chimneys are generally large in size. Those with temporary chimneys are comparatively small, and get their location changed as per firework sites. In the hilly region and valley interiors, there are small brick kilns where bricks are baked without using chimneys. Both firewood and coal are used to bake bricks in all the three types.

Labour and Labour Arrangement

Brick kiln is a seasonal but labour intensive industry. The work-season generally starts from mid-October and lasts until mid-April. But labour arrangements should be made well in advance. The workers are generally hired through *naikes* (also known as *sardars* or *meths*),

1 Rupa Dhital (1992, pp 15-26)

2 *ibid*

who are the lead source of labour arrangement. The *naikes* go to villages of potential workers before the start of the agricultural season (May - August) and advance some payment to book the workers for the kiln. These advances are deducted from wages earned by the workers during the season. In some cases, kiln owner themselves hire some workers directly for some tasks, such as coal crushing and wood-cutting and. Some workers come to the kilns on their own to find jobs.

Brick making involves a Four types of works are prominent in brick kilns. As such, there are four types of *naikes*: (a) head technician (*naike*); (b) brick making *naike*; (c) raw brick transporting *naike*; and (d) baked brick transporting *naike*. In some brick kilns, the main *naike* may have assistant *naikes* working under him. Each of them has a certain process-based role to fulfil.

- (a) **Head technician:** Often the head technician or head *naike* is from adjoining states of India, such as West Bengal, Bihar and Uttar Pradesh. The head technician is responsible to bring labour from India for furnace work. Furnace work includes making colonnade of unbaked bricks; sprinkling sand over bricks; furnace firing; fire and flame control; and hole cleaning.
- (b) **Brick making *naike*:** Brick making *naike* should oversee the entire brick making process, which involves mud preparation; brick moulding; sun baking and brick staking. Both, Nepali and Indian workers are engaged in this work.

- (c) **Raw brick transporting *naike***: Transportation of raw bricks, which are delicate, requires careful handling. Means of transportation involves human labour, animal carriers, cycles, tricycle, tractors and even mini trucks. In the Kathmandu Valley, both human labour and automobiles are used to transport raw bricks. In Morang, it is mainly human labour. In Banke, mostly horses, mules and donkeys are used.
- (d) **Baked brick transporting *naike***: Baked brick transportation involves only human labour. In this process, a *naike* controls about 25-30 workers. In the Kathmandu Valley, mostly Indian workers are involved in transporting baked bricks. In Morang and Banke, Nepali workers are also involved in this work.

2.2 THE FAMILY OF BRICK KILN WORKERS

This section discusses socio-economic characteristics of respondents' family members, including their sex distribution, age-wise population distribution, educational status and occupation.

Table 1.2: The size of the family of brick kiln workers

Sex	Districts					Total
	Morang	Banke	Lalitpur	Bhaktapur	Tanahun	
Male	830	993	182	1039	63	3107
Female	797	764	149	885	52	2647
Total	1627	1757	331	1924	115	5754

Family Size

Some 54 percent of the family members of brick kiln workers are male and remaining 46 percent are female. The nearest equality in sex distribution is in Morang, with 51 percent male and 49 percent female members. Similarly, the highest disparity is seen in Banke where 57 percent are male and 44 percent are female (Table 1.2). Of the total family members, 37 percent are in the age group of 19-40 years, 33 percent in 6-18 years, and 15 percent each in 0-5 years and 41 and above.

Education and Occupation of the Members

The majority of the members of kiln workers family are illiterate (59 percent). Of the literate and educated, 32 percent have attended up to grade ten, eight percent have participated in informal education classes and one percent has reached beyond grade ten (higher education). In terms of occupation of those above 6 years of age, the highest number of family members (40 percent) work in the same kiln as the respondents. Another 35 percent work in the agricultural sector back home, 17 percent go to school back home and eight percent do not do any significant work.

2.3 THE WORLD OF LABOUR OF BRICK KILN WORKERS

Social Demography

The striking majority of the workers (82 percent) are males in the brick kilns. In Banke, the distribution of male workers is as high as 94 percent. The nearest equality on sex distribution is in Tanahun, with 60 percent males and 40 percent females. Age-wise distribution shows some 93

percent of the workers falling between 15 to 59 years of age. About six percent of the workers are under 14 years of age and the remaining one percent or so above 60.

The total workforce of brick kilns includes 59 percent Nepalis and 41 percent Indians. Nepali workers are from various 34 districts, but it is Morang that supplies the highest percent of the Nepali workforce (15 percent). Ramechhap ranks the lowest with the supply of 4 percent. People of both hills and Terai and of all caste and ethnic groups are found to work in the kilns. In Lalitpur the Newars constitute the majority of the workforce, while in Tanahun ethnic nationalities are in the majority.³

In terms of education, 24 percent have completed grade ten, some 11 percent have received informal education and 2 percent have crossed grade ten. The remaining 63 percent are illiterate.

Property

A house and a piece of land constitute the property of the workers. But not everybody is so lucky. Some 97 percent of the workers have a house in their place of origin. Similarly, some 64 percent own a piece of land back home. Others have none. Of those who have land, 72 percent own less than 0.5 hectare, 19 percent own up to 1 hectare and the remaining 9 percent above 1 hectare. Only about 23 percent family members of the

3 See, Gurung (2003) for succinct description and analysis of the many social groups, both in the hills and Terai, which make up Nepal's socio-cultural compact.

respondents sharecrop in rented-in land. But the size of land is not bigger than one hectare.

Entry into Labour Force

The workers come to the kilns through a variety of sources. But the majority, 59 percent, come through

Ram Lakhan Yadav, 33, is from Darbhanga district of Bihar, India. He has been working as a head mistri in Azima Brick Industry, Bhatedhukur, Chamthali of Bhaktapur for the last 12 years. In the beginning, he worked as a colonnade worker for six years, then as a fireman for another five years. This experience now made him a head technician. His job is to supervises overall technical job of the kiln.

Labour collection and arrangement is the main task of head technicians. Ram Lakhan brings more than 70 workers, including sub-technicians from India. Ram Lakhan has to ensure the quality production of bricks.

For the collection of workers, he borrows Nrs. 100,000 from the owner and distributes as an advance among more than 70 workers in their hometowns during the month of October/November. The amount of distribution ranges from Rs. 1,600 to 3,200 per person. Sometimes Ram Lakhan also distributes money from his pocket for the workers who are interested to work in the brick kiln. If a worker does not come to the kiln to work, it is Ram Lakhan's responsibility to settle the amount paid in advance.

Ram Lakhan is paid on a monthly basis. His monthly salary is Rs. 8,000 (IC 5,000). He is also provided with other perks such as refreshment (smoking, chewing tobacco and nuts), a set of clothes per season, including shoes, and food and travel expenses during travel to and from India.

The job of the brick kiln has changed his life style. He is satisfied and happy with his earnings. His living standard has gone up. He has added a bigha of agricultural land and made a new concrete house in his village. He is also able to provide good education to the children.

naikes. Some 20 percent come with their friends, and 14 percent on their own. The rest come either through employers or parents.

Type and Time of Work and Remuneration

The workers in the kilns are involved in as many as 17 types of activities from mud digging through brick making to brick firing. However, the majority of the workers dig clay, prepare mud, mould bricks and carry them to make brick colonnades. Working days and working hours of the workers depend on the nature of work they are involved in. Some 50 percent of them work all seven days a week, and the remaining 50 percent take a day off. Similarly, the working hours also vary slightly. The majority of the workers, about 44 percent, work for 5 to 10 hours a day. About one fourth work from 10 to 12 hours a day, and some 31 percent work for more than 12 hours a day. More than 50 percent respondents reported they worked 7 days in a week. Similarly, 49 percent of the respondents reported that they work for 6 days in a week. Laborers working less than 6 days in a week were found nominal.

Just as the nature of work, the payment varies. Some 38 percent of the workers earn in the range of NPR 2,500 to 5,000 a month. Similarly, 35 percent earn between NPR 1,500 and 2,500 and 13 percent earn less than NPR 1,500. Some 10 percent earn more than NPR 5000 per month. The calculation of remuneration is very tricky. As family involvement is common in much of brick kiln labour, barring a few chores that require skilled workers, the remuneration quoted is attributable to a family's joint earning.

The mode of payment also differs along activities. For the majority of workers (77 percent), who work in the chain of activities leading to the preparation of raw bricks, the payment is done on a piece-count basis. About 17 percent get their remuneration on a monthly basis and 6 percent get wages daily. As for accommodation, 75 percent stay at the shelters provided by employers, 24 percent have their own houses and the rest two percent live in rented rooms. But the situation is somewhat different in Morang and Banke, where about 45 and 35 percent of the workers come from their own villages respectively. It indicates that the local workers in these two districts are higher than in others.

The payment in brick kilns is, as discussed above, comparatively low. Still it is better than none. For some 56 percent of the workers, this is the only job available easily. For another 21 percent, brick kilns give better income than others. For as many respondents, this is the job available when they are free.

Payment and Settlement of Advance

Some 70 percent of the workers have taken an advance payment. They got the payment back home before the start of the season pledging their labour to the work in brick kilns. The amount received varies. Of the total advance recipients, 30 percent received less than NPR 1,500. Another 30 percent received in the range of NPR 15,00 to 2500. Similarly, 23 percent received between NPR 2,500 to 5,000 and some 17 percent received more than NPR. 5,000. All these advance payments are deducted

from respective workers' remunerations. This practice of advance payment cuts across all brick kilns.

The advance payment has an implication for the schedule of payment for the work in the brick kilns, especially of those who work on a piece-count basis. They have to wait until the end of the season to get their outstanding remuneration. However, they do not know the exact amount of money they will get then.

Freedoms and Entitlements

The work in brick kilns is not freedom-friendly. About 64 percent of the workers do not see the possibility of leaving brick kilns once they join them. Amongst them, about 89 percent are bound by the advance payment. The rest feel bound by verbal bonds. Either way, seasonal debt-bondage is pervasive in the world of brick kilns.

Anita Kumari Mandal, 17, of VDC Sorabhag-2 of Morang district carries baked bricks. She has been doing this job for the last 10 years in the same brick kiln. In her early days, she recalls, she used to carry four bricks at a time with her mother, who also works in the same brick kiln. Recently her mother has been elevated to a female chieftain (*sardar*) of the brick kiln. She handles about 125 baked and unbaked brick carrying workers. Among them 100 are unbaked brick carrying workers.

Her work period starts from 7 in the morning and ends at 6 in the evening. She carries one line of bricks in one and a half days. One line of baked brick contains about four thousand bricks. She gets 175 rupees for carrying one line of bricks. She is not satisfied with the payment. But she is compelled to work. She has no other options.

Worse, almost all the workers, barring 2 percent, have not heard of minimum wages. Nor are they aware of - or aligned to - any trade unions. This ignorance adds to their vulnerability to abuses and exploitation.

Vision of Alternative Works

Asked about their engagement if they had not come to brick kilns, the highest number of them (36 percent) would have gone elsewhere to find agricultural work. Another 33 percent could have found some job in the non-agriculture sector and some 19 percent would have stayed home to work in their own field. A few of them could have gone to India to work. But they do not think that the alternative employment could be any better. For 59 percent of the respondents, the payment could rather be worse.

Similarly, after the current job in brick kilns is over, some 66 percent of the respondents wish to engage as agricultural workers, whether in their own farm or otherwise. Some 31 percent hope to engage in the non-agricultural sector. Others will either stay home or go to India to find some work.

Addictions

Smoking, chewing tobacco and drinking are common amongst 66.2 percent of the workers. The majority of them are addicted to smoking and chewing tobacco, while a few also take alcohol. The addiction habit costs those involved between NPR 100 and 500.

2.4 CHILD LABOR IN BRICK KILNS

Brick making is an enterprise that involves the whole family. So it is given that child labour is common in brick kilns. In the course of the study, a separate survey was conducted involving 348 children working with their family members. The purpose was to see the extent of child labour in the kilns and the work children do. Some 50 percent of the child workers carry bricks in and out of the kilns. The rest are involved in the brick making process. The use of child workers is nominal in other activities.

Payment and Benefits

Regarding the payment, about 19 percent of the child workers are not aware whether they get any payment. Some 68 percent are paid on a piece-count basis, 9 percent on a daily basis and the remaining 4 percent of them on a monthly basis.

Child labour costs children dear. The first cost they pay is the discontinuation of their schooling, which is not possible and available for migrant child workers. As such, some 88 percent of child workers do not go to school. In Morang and Banke the percent of such children goes as high as 91 percent. Before they came to the kilns, about 52 percent of the total child workers used to go to school in the place of their origin. Once entered into wage earning activities, it is seldom that these children continue their schooling. Only about 24 percent of the children interviewed hope to rejoin their school after the completion of brick kiln works.

The parents of some 64 percent of the child workers have taken advances from *naikes* or brick kiln owners. This advance keeps them bonded to the brick kiln to which they are assigned. Seasonal debt-bondage also prevails amongst child workers.

Health Hazards

Health hazards are reported to be common amongst the working children. The major health hazards include backache, headache, ear sore, fever and hand or leg pain. A small percentage of them have also experienced some form of sexual harassment predominantly by their fellow workers. About 11 percent of the children are also

Dhan Bahadur Acharju, 13, is a child labour, working in the Azima Fixed Brick Kiln, Bhaktapur. He has been in the brick kiln for the two years. He is from Barhabise ward No. 7 of Kavreplanchowk district. Dhanbahadur came to the kiln with his elder brother who is working in this kiln for the last five years.

Dhan Bahadur gets a time-bound job for six months on a monthly salary basis, which earns him Rs. 1,200 per month. His main job is to distribute tokens (*kauri*) to count the number of bricks conveyed by brick carrying workers. His extra works include office cleaning, and making tea for office bearers, visitors and owners. For this extra works, he gets two cups of tea daily. In addition, he should also sort out broken bricks and clear the kiln.

Dhan Bahadur should also cook food for his brother and himself. To complete all these chores, he gets up early in the morning and works through late evening. He gets Rs 250 per week for food (*khuraki*), which is deducted from his final earning. Asked what he would do with his savings, he says, "I have to send money to my parents".

addicted to cigarette and tobacco with additional two percent even habituated to drinking.

Awareness against Child Labour

Unlike adult workers, about 42 percent of child workers are aware of the legal prohibition of child labour. They are even aware why this prohibition has not been effective. The majority of them (95.2 percent) find poverty as the main reason that defies the prohibition. Others see problems embedded in the education system. They hint that for legal sanctions to be effective, the problems of poverty should be addressed.

2.5 CONCLUDING OBSERVATION

The brick industry is one of the oldest and highly domestic industries in Nepal. In recent years, the industry has grown parallel to urbanisation. Given the current pace of urbanisation, it is likely that the industry will grow further for some time to come.

Most of the workers in the industry are seasonal migrants. They have come to the brick kilns to pay off the advance they or their family members have taken, and cannot leave the kilns until the season is over or the advance is paid off. The brick industry thus involves a peculiar pattern of seasonal bonded labour, in which the workers are bonded to the owners for a certain period of time by virtue of an advance payment.

Brick making is a tedious process that involves as many as 17 chain of activities. In most cases, whole family members are found engaged in the chain of activities,

including children who work alongside their parents or elders. In certain tasks, children are preferred, such as brick moulding and brick carrying in and out of the kilns. This is where the brick industry becomes more dangerous and damning. Allowing children to toil at hard labour at the cost of their schooling kills their future. A child denied their future is a nation denied its future. After all, there is this saying, 'children are the future of a nation'.

The majority of the workers, who are poor and are from the margins of society, do not know about trade union or about a minimum wage. This is an area of urgent intervention; trade union membership and knowledge about a minimum wage would give these workers some leverage to raise a voice against exploitation and oppression.

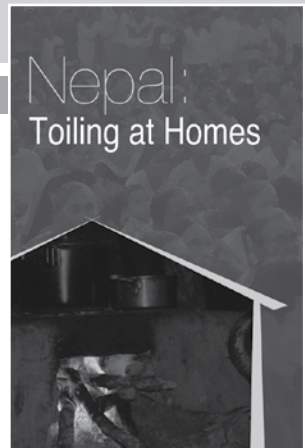
A large body of legal, political and sociological literature is available, nationally and internationally, condemning bonded labour both as immoral and illegal.⁴ Yet, bonded labour continues mutating into different forms and patters. The system of seasonal bonded labour this chapter brings to light is a case in point.

4 The legal literature includes international human rights law and national law and declarations in general; and the UN Conventions prohibiting slavery and slave like practices, and ILO Conventions prohibiting forced and worst forms of child labour in particular. Schlemmer (2000) presents a global sociological analysis of child labour and Robertson and Mishra (1997) locate bonded labour in social and political contexts of Nepal.

Chapter 3

Nepal:
Toiling at Homes

DOMESTIC LABOUR



CHAPTER THREE

DOMESTIC LABOUR

A domestic worker (or a domestic) is a child or an adult engaged in the domestic labour force, especially in domestic chores. Domestic labour encompasses two broad areas of 'self employment' and 'wage employment'. The first category includes household responsibilities: taking care of young babies, making food for the family and cleaning dishes, among others. The second includes gainful employment outside one's home.

The practice of employing domestic workers is common in Nepal. The practice has a connection to the feudal legacy in which domestics are required to do menial chores of the rich and powerful for reasons of social prestige. Even today, this legacy continues amidst certain groups of people with the number of domestics employed being a benchmark for their social capital. Currently, growing urbanisation and the resultant growth of a busy middle class in the cities has become another reason behind the increasing employment of domestics.

Domestic work engages both children¹ and adults, in both rural and urban areas. In rural areas, the engagement of

1 'Children' are defined as those below 18 years of age as per the definition of the United Nations Convention on the Rights of the Child 1989, to which Nepal is a State Party. In Kathmandu, Sharma et al (2002) found 20 of 100 households employing children as domestic workers in 2001.

domestics is limited to affluent households. They employ domestics for household chores as well as for agricultural activities, including cattle herding. The intensity of engagement of domestics is less in rural areas than in urban areas.

Prima facie, the domestics, whether self-employed or wage-employed, work in a situation that is either obstructive to their human development or harmful to their overall safety and security. If it is a child involved, the implications of harms are graver and more far-reaching. However, there is a lack of information vis-à-vis the extent and exactness of problems, elements of labour relationships and nature of exploitations. This information gap has prevented the development of an appropriate strategy to address the plight of domestic workers. This chapter is aimed to provide the missing link, which is necessary to formulate appropriate policies and actions addressing exploitative relationships with regards to domestic labour.

CHAPTER BACKGROUND

The chapter is the result of a study conducted in March 2006 at a municipal level involving altogether 1,969 households (Table 1) of one municipality each of Morang, Kathmandu and Banke districts². Given the limited number of focus districts involved, the study does not claim to provide full-fledged background and analysis of challenges and plights facing the domestics throughout Nepal. Nonetheless, the study is expected to be a useful

2 Biratnagar Municipality of Morang, Kathmandu Municipality of Kathmandu and Nepalgunj municipality of Banke.

baseline for a fuller inquiry into this formidable issue, while also providing basic information on the nature and environment of domestic labour. More specifically, the study was launched with the following objectives:

- to assess the magnitude and extent of domestic labour, with particular focus on elements of debt-bondage, in the three districts
- to explore and analyse root causes, including social and family contexts, that trigger and maintain the problem; and
- to recommend guidelines for policy interventions and programs geared towards progressive elimination/control of exploitative labour.

Table No 1: Number and Area of Households Enumerated for Door-to-Door Survey

Area/Zone	Districts			Total
	Kathmandu	Morang	Banke	
Urban	165	700	145	1010
Semi-urban	242	0	315	557
Rural	0	279	123	402
Total	407	979	583	1969

Information was collected through a stratified sampling technique dividing each municipality into: (i) urban, (ii) semi-urban, and (iii) rural zones. The urban zone was defined as one with high concentration of market areas. Semi-urban zone involved both market and rural pockets, while rural zone included only non-market rural areas. A total of 292 domestic workers employed for wage purposes – and not those in self-employment

– were interviewed at length for information collection under the study.

Household survey was done through a short questionnaire to determine the incidence of domestic labour. Separate questionnaires were administered to sample domestic workers and employers.

THE FAMILY OF DOMESTIC WORKERS

Family Size

The average household size of the family of domestic workers is 3.41 in Kathmandu. In Morang and Banke, it is 4.28 and 5.70 respectively. Fifty-three percent of the total population is that of female and the remaining 46 percent is of male. Children below 10 years of age constitute 17 percent of the total population. And those between 10 and 14 years of age group constitute another 24 percent. Similarly, 13 percent of the total population is between 15 and 18 years of age. The rest, 46 percent of the total population, is of 18 years and above. The age disaggregation reveals that children constitute the majority of the population in the enumerated households.

Family Occupation

Occupation wise, some 33 percent of the family members, aged 6 and above, work as domestic workers. Some 23 percent are engaged in agricultural labour, 15 percent are in the non-agricultural sector and about 20 percent of the family members go to school. Similarly, 7.3 percent do nothing and 1.4 percent work in their own farm.

Education

In terms of education, about 45 percent family members of domestic workers are illiterate. Of those literate and educated, some 14 percent have had informal education and 26 percent have completed the primary level of education. The percent of those completing lower secondary level is 10, secondary level is 4 and higher secondary level is one.

THE WORLD OF LABOUR OF THE DOMESTICS

Social Demography

Some 68 percent of the 292 domestic workers interviewed are female. This shows clear preference for female in domestic work. In terms of age, the striking majority of domestic workers are children below 18 years of age. Of them, 41.4 percent are of 10 to 14 years of age and 26 percent fall between 15 and 18 years. Even children as young as 10 and below are found to engage in domestic labour although the extent of such engagement is 2.1 percent. In the aggregate, 69 percent children are found to engage in domestic labour.

Table 2: Age Distribution of Domestic Workers

Age Group	Kathmandu		Morang				Banke				Total			
	Urban		Semi Urban		Urban		Rural		Urban				Semi Urban	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Less than 10			1	1.1			1	5.9			4	6.2	6	2.1
10 to 14	4	40	34	39.1	35	35	4	23.5	8	61.5	36	55.4	121	41.4
15 to 17	4	40	26	29.9	16	16	5	29.4	4	30.8	20	30.8	75	25.7
18 and above	2	20	26	29.9	49	49	7	41.2	1	7.7	5	7.7	90	30.8
Total	10	100	87	100	100	100	17	100	13	100	65	100	292	100

In terms of caste and ethnic distribution, 25 percent of the domestic workers are found to belong to ethnic communities (Gurung, Rai, Magar, Tamang and so on), 24 percent are from Bahun and Chhetri communities, 23 percent from the Tharu community and 15.4 from Terai caste groups. Similarly, about 7 percent belong to Terai *Dalit* groups, 3.4 percent to the Newar community, and one percent to hill *Dalits*. In the existing caste-based worldview, *Dalits* are not preferred as domestic workers since they are considered to be impure (untouchable) to work within household parameters. This is why *Dalits* do not feature prominently in domestic labour.

The educational status of domestic workers is appallingly poor. About 37 percent are completely illiterate while some 16 percent have some level of literacy gained from informal education. About 28 percent have completed primary level of education, 15 percent lower secondary level, 3.4 percent secondary level and only one percent has completed the threshold of higher secondary level.

The place of origin of the domestic workers varies widely. They have come from as many as 46 districts of different ecological regions. But the majority are from the Terai region constituting some 72 percent of the total workers. Of the rest, some 24 percent are from the Hills and 2.1 percent are from the Mountainous region. Interestingly, some domestic workers (1.4 percent) have also come from India.

Property

The property domestic workers own is nominal, if any. Yet, most of them, some 81 percent, own at least a house in their place of origin. The family of those owning no house stay either in rented houses or in places provided by employers. In terms of land ownership, only a meager 17 percent own some marginal piece of land ranging from less than a half hectare to one or slightly more than one hectare.

Entry into Labour Force

Generally parents and their relatives bring domestic workers from their home to the working place. Some 33 percent of those interviewed came to the place of work with their parents. Another 26 percent came with their friends following consultation with parents, while concerned employers directly contacted some 16 percent. About 6.5 percent came on their own and 2 percent came with brokers and friends without consulting their families. The rest came with their relatives and family members. About 45 percent left their home more than three years ago to take up domestic work. Another 10 percent are in the work for two to three years, 12 percent for close to two years and the rest for six months to a year.

Majority of the workers, 78 percent, work full time. Of the 22 percent part-timers, 50 percent engage in their own household chores and work only part-time as wagedworkers, 46 percent do not get fulltime work, two percent work as peon in office and the remaining two percent are deprived of fulltime work because of their 'so called' untouchable caste status.

For more than half of the domestic workers (54 percent), the present job is the first one they have taken up to earn a wage. Of the rest, 34 percent had previously worked as domestic workers in other places, 7.5 percent as agricultural workers in their own villages, two percent in the construction sector and two had engaged in other forms of labour, including begging. They left previous jobs for various reasons, mainly the following: 53 percent could not bear harassment and bad treatment from employers and 33 percent were not given a good salary.

Children enter the workforce as young as six. About 35 percent reported that their age was between 6 and 10 when they started working. Another 38 percent were between 11 and 15 when they entered the workforce. These figures suggest children are preferable to adults for domestic work.

Type and Time of Work and Remuneration

Domestic workers perform a wide range of activities. They do household chores and also engage in farm works, including cattle herding and fodder collection. Doing the dishes, house cleaning, washing, cooking and childcare constitute major household responsibilities. These are not 'either or' choices, but the list of duties the domestics are expected to perform on a daily basis. Fodder collection, agricultural work, livestock tending and rickshaw pulling constitute non-household work.

Majority of the domestic workers, 60 percent, work longer than 12 hours a day, while 18 percents work for 11 to 12

hours. Similarly, 9 percent work for 6 to 10 hours a day and 13 percent work up to 5 hours.

For all the work done, the remuneration paid is either nonexistent or abysmally nominal. About 34 percent domestic workers do not get a salary. All the get is facilities for educational. Fifty-five percent domestic workers get a salary on a monthly basis and the remaining 11 percent annually. The amount of salary is around NPR 500 per month for about 58 percent workers. For the rest 42 percent, it is almost half of that, NPR 250 or less a month. When it comes to the provision of food, 82 percent get it from their employers, while the rest, 18 percent, manage it on their own. As for accommodation, 77 percent use the facilities provided by employers. The remaining 23 percent stay elsewhere, either in their own houses or in rented rooms.

Loan and Repayment

About 96 percent of domestic workers and their families have not taken any loan from employers. Of the 4 percent who have taken a loan, 56 percent have borrowed from their employers in the current year. About 22 percent borrowed the previous year. Some 11 percent are indebted for two years, while another 11 percent are under debt for more than four years. The exact amount of loan borrowed is not known to 33 percent of the respondents. About 22 percent are aware that the amount borrowed is NPR 10,000. Similarly, another 11 percent each have borrowed NPR 7,000, 6,000, 5,000 and 500 respectively.

Of those who have borrowed a loan, 56 percent work as the domestics because of the borrowing. This is indicative of the close nexus between a loan and domestic labour and a bond between employer and worker.

The system of loan repayment involved both cash and in kind payment in the case of 56 percent of the domestic workers. The remaining 44 percent had their loan deducted from their salary. About the current status of loans, not least the balance to be paid, 66 percent had no clear idea. Among the rest 33 percent, 11 percent each know that the loan remaining to be paid is NPR 10,000, 7,000 and 1,000 respectively.

Freedoms and Entitlements

Freedom to leave the domestic work is almost impossible once involved in it. The reasons that limit the freedom are many. For 24 percent domestics, another work is not available. They are, therefore, bound to carry on with what they have. Another 19 percent cannot leave the job for fear of school discontinuation. In their free time, they continue their schooling. Job insecurity of other family members or relatives has compelled 19 percent to continue working as domestics. About 13 percent cultivate employers land or work as a tenant leaving which will have serious repercussions. Parents do not want another 13 percent to leave the work, and loans taken by parents keep some 12 percent at the work. Some five percent are happy at the way they are treated by their employers, hence do not want to leave the job.

Majority of the domestics (66 percent) have not heard of trade union, and none are associated with any trade unions. Amongst children less than 18 years of age, half are full-time domestic workers. Another half work part-time and go to school during school hours.

Domestic work does not take place in a heavenly environment. Difficulties and punishments form part of working life to some domestics. About 40 percent have experienced punishment during the work by employers. Punishments include scolding and rebuking (for 98 percent), and deducting salary and even slapping (for about 2 percent each).

Health and Medication

Around 51 percent of the workers do not take any protective measures while working. They work barefoot and do not use gloves. The remaining 48 percent wear shoes or boots during work. The level of addiction is nominal amongst them. Only 10 percent of them are addicted to smoking and chewing tobacco for which they spend NPR 60 - 100 a month. When injured or unwell during the work, 83 percent get the medical costs covered by their employers, 14 percent cover the costs on their own and the remaining three percent simply ignore and let the injuries die down. In terms of physical and mental health, 94 percent seemed physically fit. Some three percent were deaf and another three percent dumb and partially blind.

Future Envisioning

Focused everyday on the burden of mundane chores, the domestics seem to have lost the power to think of a different future. About 27 percent do not have an answer. For another 26 percent, the future will be limited to domestic labour. About 13 percent want to shift their engagement in the non-agricultural sector, 12 percent hope to find other good jobs, 9 percent want to be skilled workers, 7 percent wish to continue their schooling, and the rest wish to return home to take up any work available in their own village, including rickshaw pulling.

Also on their vision of alternative employment, the response is no different. About 20 percent do not have an answer, some 28 percent want to stay at home without doing any work and 26 percent wish to engage in agricultural labour. Some 8 percent hope to study further and 7 percent do not see the possibility of an alternative employment other than domestic labour.

Those who wish to find alternative employment in the future do, however, not think that the new job would earn them any better. About 44 percent think the payment or income would be similar to the current one. About 54 percent think it would be worse, half or even less of the existing income. Only 2 percent hope to get a payment higher than the present one.

Asked whether the domestic workers would recommend anyone for domestic labour or bring any of their colleagues to work as domestics, the answer was in the negative.

This alone suggests that domestic labour is worse than none.

CONCLUDING OBSERVATIONS

This chapter makes it very clear that child labour is rampant in the domestic sector. Child labour, it goes without saying, damages children's future. It robs them of an opportunity to grow and develop both physically and intellectually. It shatters their creative potential. In a sense, a child put to toil dies as a creative human person before they enter their adulthood.

Child labour takes place not because adults are not available for work but because of children's vulnerability. Children are physically weak and, thus, are easy to dominate and manipulate. They have no bargaining power. They simply follow orders without complaints and can be forced to stretch to the limit at the cost of love and care they require, let alone schooling and other human development opportunities. So children are preferred to adults to earn as much as possible, to produce surplus value, to quote Karl Marx.

Can child labour be tolerated? No, not legally, the United Nations Convention on the Rights of the Child (CRS) does not allow child labour. ILO Conventions, such as, Convention No. 29 (on forced labour), Convention No. 182 (on worst forms of child labour) and Convention 138 (on minimum age), to which Nepal is a State Party, prohibit certain forms of child labour and regulate others. The Children' Act 1992 also prohibits child labour. Yet this heinous practice continues because those who benefit

from it are too clever to find loopholes to manipulate the system. This proves legal prohibition does not stop child labour.

What stops child labour, then? The answer could lie in moral prohibition. As long as rich adults do not feel ashamed of benefiting from child labour, the problem will continue to occur.

The information collected explains various forms of deprivations and exploitations, including unlimited working hours, physical and verbal abuses, and unavailability of protective measures, the children suffer as domestic workers. The information is useful in its own right. But the point here, and the need of the day, is not just to explain the problem, which is obvious in many respects. The urgent need of the day is, to paraphrase Karl Marx, to change the labour relationships in the domestic sector in general. And in particular, it is to change the profiteering mentality of those who have power and influence. To add to their riches and comfort, they should stop exploiting children to death.

Chapter 4

GENERAL CONCLUSIONS

CHAPTER FOUR

GENERAL CONCLUSIONS

Bonded labour and other forms of inhuman and exploitative labour practices are common in Nepal. Such practices are believed to cut across almost all labour sectors. But there are certain sectors in which such practices are more entrenched. Agriculture is one of them. Others are the domestic sector and brick industry.

This report suggests that the agricultural sector alone involves nearly a dozen inhuman labour practices. However, the bonded labour in the *kamaiya* system is the only labour practice that has been well researched, understood and addressed. Others have attracted only sparse or no attention. The dearth of reliable information vis-à-vis the many forms of exploitative labour relationships should be addressed as a matter of priority. Only then, necessary interventions should be made. This is a key lesson that stands out in the first chapter. Why the interventions made against the *kamaiya* system have become relatively successful is because they were backed by reliable information or truth about the breadth and depth of the *kamaiya* problem.

The key success of the interventions made against the *kamaiya* system has been the liberation of the *kamaiyas* from bondage. This is by no means a small success. But it has not been without failures. Bonded labour has

mutated into new forms. The categorisation of *kamaiyas* created divisions and animosity amongst themselves. Those not addressed by the government interventions have been missing from public scrutiny. Their fate could be anything but normal. The resettlement of *ex-kamaiyas* has created conflict with local communities in terms of the use of resources. Another key contention made in relation to the *kamaiya* liberation is that the overall response was not informed by human rights values and principles and was welfare-based. It is about time that all these aspects and issues are critically examined in order to develop follow-up responses as necessary.

In the non-agricultural sector, domestic labour and brick kiln labour have, in recent years, drawn some attention of researchers and activists. But the available information base is too narrow and limited to build effective responses to the labour relationships involved. The chapters included in the report (chapter two and three) hint that a comprehensive study is necessary to build a reliable knowledge base in relation to these labour sectors. In fact this can be the strongest recommendation vis-à-vis domestic and brick kiln labour. Yet, these studies are sufficient to draw at least two fundamental conclusions.

First, intolerable forms of labour, including child labour and debt-bondage, continue to exist not in lack of the awareness of harms inherent to them. Nor do they exist in lack of legal prohibition of them or public outcry against them. These labour practices exist in lack of moral shame and social conscience on the part of those who are said

to be rich, powerful, educated and standard-bearer of society.

Second, intolerable forms of labour stem from the legacy of feudalism: *I give you a protective shelter and you pay me back in sweat and tear*. The present-day logic of market capitalism backs up this feudal logic: *the right of the might is to earn and consume as much as possible by any means available*. In fact, intolerable forms of labour are highly desirable for the might of both the feudals and capitalists.

The prospects of the elimination of bonded and other intolerable forms of labour does therefore depend on the capacity of the concerned actors, particularly of NGOs, trade unions, media and other actors in the civil society, to protect the weak and vulnerable from the clutches of the powerful who are habituated to profiting from others' vulnerability.

Way Forward

One of the key lessons that stands out from the review and reflection of the past is the lack of comprehensive approach to the problem of bonded labour. The way forward does require correction to this. Exploitative labour relationships, whether bonded or otherwise, are extreme violations of human rights. They shatter dignity and deny human development potentials, not to speak of other limitations such on freedom of choice and movement. Hence, they should be approached from a human rights based approach, which in the context of present discussion involve basically two principles, the

principle of (a) state accountability and; (b) broad-based participation, including the participation of bonded and exploited labourers.

Human rights based approach holds that human rights violations occur because of the failure of the state to protect the vulnerable and hold the violators to account. To respect, protect and fulfill the rights of the people under its jurisdictions is the international human rights obligation of the state. This obligation should be invoked and reinforced in any actions aimed at addressing exploitative labour relationships. Doing so calls for actions at two levels:

- At the national level, organize, educate and mobilize the workers themselves against the violation of their human rights, including fundamental labour rights. Establish a broad network of human rights organizations, trade unions, media, intelligentsia and other interest groups in order to create pressure on the state to act as per its international human rights obligations.
- At the international level, network with like-minded institutions, with trade union networks, UN agencies, including ILO, and international human rights organizations to create pressure and provide necessary support at the national level, to name and shame the state into acting as per its obligation.

Promotion and protection of human rights requires broad-based participation of both state and non-state actors (media, civil society, trade union and NGOs in

particular), including the participation of the vulnerable people or victims themselves. These people know how their problems should be addressed and how any intervention can be made sustainable. Promotion and protection of human rights is not spoon-feeding. It is the capacity building of the vulnerable and elimination of their threat.

Specifically, the following are the minimum recommendations towards the abolition of bonded and exploitative labour relationships, and regulation of other forms of labour.

Establishing reliable knowledge base

This report makes it clear that there exist a number of exploitative labour practices in the agricultural sector. However, very little is known about them, except the *kamaiya* labour. Such practices may be prevalent in other sectors as well. Nothing is known about them. Some studies have been made about labour in the domestic sector and brick kilns. But these are too limited to establish reliable estimations. This scenario begs the necessity of further studies in these sectors in order to establish a reliable knowledge base of the extent of the existence of intolerable labour relationships.

Education and organisation

The workers need to be educated about their fundamental labour rights, including the right to a minimum wage and standard working hours, and empowered them to claim these rights. A way of empowerment is to facilitate their

unionization. This report makes it clear that workers in the domestic sector and brick industry are not aware of trade union rights. This scenario should end. Trade unions should reach out to all labour sectors to unionise all bona fide workers.

Public advocacy

Public advocacy should be organized at various levels in order to produce a critical mass of people against the exploitation of labour and in support of the rights of the workers. Public advocacy should also aim to ‘liberate the oppressors’, to recall Paulo Freire, from their oppressive mentality and mobilize them in support of the rights of the workers. The *Appeal Movement* as discussed in chapter one has hinted at the possibility of engaging even the ‘oppressors’ in such efforts.

Public advocacy should also aim at policy change and enactment of necessary legislation. In the case of Nepal, however, it is not the lack of policy and/or law against bonded labour or intolerable forms of labour. The problem is the lack of political will to implement them. To address this requires concerted pressures from various quarters at various levels.

Legal prohibition and regulation

The following are a must on these fronts.

- Bonded labour and child labour should be prohibited outright. Available laws should be enforced effectively, and necessary legislative arrangement should be made to discourage and punish those who

exploit or encourage bonded and child labour in any form, pretext or context whatsoever.

- Existing laws do not cover the informal sector. As such, current legal provisions are not enforceable in the domestic sector, in which child labour is widespread. This calls for targeted interventions to bring the domestic sector within legal scrutiny. As an immediate measure, however, the children involved should be rescued and rehabilitated, and those exploiting child labour be punished.
- A reason why child labour takes place is because adult workers are not paid a decent minimum wage. The quest for family survival forces them to put their children to work. It is a must that the minimum wage be reviewed, a standard wage fixed and strictly enforced. Enforcement of standard minimum wages contributes to the reduction in the supply of child labour.
- As brick kilns are registered institutions, they are obliged to abide by labour laws and regulations. Yet, they are seen to flout these regulations openly. This lawlessness should end. The government should be shamed into strictly enforcing all labour legislations.

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PAYING BACK IN

SWEAT & TEAR

This report is a consolidated form of mainly three reports namely-

Kamaiyas and Interventions(an analysis of the effectiveness of interventions made over the years for the release and rehabilitation of bonded labourers in Nepal); **Labour under the Chimney** (a study on the Brick Kilns) and **Toiling at the Homes** (a study of the Domestic Labour) of Nepal. The report is the product of a study that was commissioned as part of a regional project in association with Anti-Slavery International, London.

